



# Housing Act 1985

## 1985 CHAPTER 68

### PART XI

#### HOUSES IN MULTIPLE OCCUPATION

##### *Supplementary provisions as to works notices*

#### **375 Carrying out of works by local housing authority.**

- (1) If a notice under section 352, 366 or 372 (notices requiring the execution of works) is not complied with, the local housing authority may themselves do the work required to be done by the notice.
- (2) Compliance with a notice means the completion of the works specified in the notice within the period for compliance, which is—
  - (a) if no appeal is brought against the notice, the period specified in the notice with any extension duly permitted by the local housing authority;
  - (b) if an appeal is brought against the notice, and the notice is confirmed in whole or in part on the appeal, the period of 28 days from the final determination of the appeal or such longer period as the court in determining the appeal may fix.
- (3) If, before the expiration of the period for compliance with the notice, the person on whom the notice was served notifies the local housing authority that he is not able to do the work in question, the authority may, if they think fit, themselves do the work forthwith.
- (4) The provisions of Schedule 10 apply with respect to the recovery by the local housing authority of expenses incurred by them under this section.

#### **376 Penalty for failure to execute works.**

- (1) A person on whom a notice has been served under section 352, 366 or 372 (notices requiring the execution of works) who wilfully fails to comply with the notice commits

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a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

- (2) The obligation to execute the works specified in the notice continues notwithstanding that the period for compliance has expired; and a person who wilfully fails to comply with that obligation, after being convicted of an offence in relation to the notice under subsection (1) or this subsection, commits a further summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (3) References in this section to compliance with a notice and to the period for compliance shall be construed in accordance with section 375(2).
- (4) No liability arises under subsection (1) if the local housing authority, on being notified in accordance with section 375(3) that the person on whom the notice was served is not able to do the work in question, serve notice that they propose to do the work and relieve him from liability under subsection (1).
- (5) The provisions of this section are without prejudice to the exercise by the local housing authority of their power under section 375 to carry out the works themselves.

### **377 Powers of court to facilitate execution of works, &c.**

- (1) Where—
  - (a) a person is required by a notice under section 352, 366 or 372 to execute works and
  - (b) another person having an estate or interest in the premises unreasonably refuses to give a consent required to enable the works to be executed,
 the person required to execute the works may apply to the county court and the court may give the necessary consent in place of that other person.
- (2) If a person, after receiving notice of the intended action—
  - (a) being the occupier of premises, prevents the owner or his officers, agents, servants or workmen, from carrying into effect with respect to the premises any of the preceding provisions of this Part, or
  - (b) being the owner or occupier of premises, prevents an officer, agent, servant or workman of the local housing authority from so doing,
 a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (3) A person who fails to comply with an order of the court under subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale; and if the failure continues, he commits a further summary offence and is liable on conviction to a fine not exceeding £20 for every day or part of a day during which the failure continues.

### **378 Provisions for protection of owners.**

- (1) If an owner of premises who is not the person in receipt of the rents and profits gives notice to the local housing authority of his interest in the premises, the authority shall give to him notice of any proceedings taken by them in relation to the premises under any of the preceding provisions of this Part.

- (2) Nothing in the preceding provisions of this Part prejudices or interferes with the rights or remedies of an owner for breach, non-observance or non-performance of a covenant or contract entered into by a lessee in reference to premises—
- (a) in respect of which a notice requiring the execution of works is served by the local housing authority under 352, 366 or 372, or
  - (b) as respects which an order under section 370 (order applying management code) is for the time being in force;
- and if an owner is obliged to take possession of premises in order to comply with such a notice, the taking possession does not affect his right to avail himself of any such breach, non-observance or non-performance which occurred before he took possession.

### **379 Making of control order.**

- (1) The local housing authority may make a control order in respect of a house in multiple occupation if—
- (a) a notice has been served in respect of the house under section 352 or 372 (notices requiring the execution of works),
  - (b) a direction has been given in respect of the house under section 354 (direction limiting number of occupants),
  - (c) an order under section 370 is in force in respect of the house (order applying management code), or
  - (d) it appears to the authority that the state or condition of the house is such as to call for the taking of action under any of those sections,
- and it appears to the authority that the living conditions in the house are such that it is necessary to make the order in order to protect the safety, welfare or health of persons living in the house.
- (2) A control order comes into force when it is made, and as soon as practicable after making a control order the local housing authority shall, in exercise of the powers conferred by the following provisions of this Part and having regard to duties imposed on them by those provisions, enter on the premises and take all such immediate steps as appear to them to be required to protect the safety, welfare or health of persons living in the house.
- (3) As soon as practicable after making a control order the local housing authority shall—
- (a) post a copy of the order, together with a notice as described in subsection (4), in some position in the house where it is accessible to those living in the house, and
  - (b) serve a copy of the order, together with such a notice on every person who, to the knowledge of the authority, was immediately before the coming into force of the order a person managing or having control of the house or is an owner, lessee or mortgagee of the house.
- (4) The notice mentioned above shall set out the effect of the order in general terms, referring to the rights of appeal against control orders conferred by this Part and stating the principal grounds on which the local housing authority consider it necessary to make a control order.

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**380 Modification of control order where proprietor resides in part of house.**

- (1) The local housing authority may exclude from the provisions of a control order a part of the house which, when the control order comes into force, is occupied by a person who has an estate or interest in the whole of the house.
- (2) Except where a contrary intention appears, references in this Part to the house to which a control order relates do not include a part of the house so excluded from the provisions of the order.

**381 General effect of control order.**

- (1) While a control order is in force the local housing authority—
  - (a) have the right to possession of the premises,
  - (b) have the right to do (and authorise others to do) in relation to the premises anything which a person having an estate or interest in the premises would, but for the making of the order, be entitled to do, without incurring any liability to any such person except as expressly provided by this Part, and
  - (c) may, notwithstanding that they do not, under this section, have an interest amounting to an estate in law in the premises, create an interest in the premises which, as near as may be, has the incidents of a leasehold;but subject to section 382 as regards the rights of persons occupying parts of the house under existing tenancies or agreements.
- (2) The local housing authority shall not, without the consent in writing of the person or persons who would have power to create the right if the control order were not in force, create in exercise of the powers conferred by this section any right in the nature of a lease or licence which is for a fixed term exceeding one month or is terminable by notice to quit (or an equivalent notice) of more than four weeks.
- (3) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
  - (a) an interest created under this section, or
  - (b) a lease to which the authority become a party under section 382,as if the authority were the legal owner of the premises; but subject to the provisions of section 382, relating to the Rent Acts.
- (4) On the coming into force of a control order any notice direction or order under section 352, 354, 366, 370 or 372 shall cease to have effect as respects the house to which the control order applies, but without prejudice to any criminal liability incurred before the coming into force of the control order, or to the right of the local housing authority to recover any expenses incurred in carrying out works.
- (5) A control order is a local land charge.
- (6) References in any enactment to housing accommodation provided or managed by the local housing authority do not include a house which is subject to a control order.

**382 Effect of control order on persons occupying house.**

- (1) This section applies to a person who, at the time when a control order comes into force, is occupying part of the house and does not have an estate or interest in the whole of the house.

- (2) Section 381 (general effect of control order) does not affect the rights or liabilities of such a person under a lease, licence or agreement (whether in writing or not) under which he is occupying part of the house at the time when the control order comes into force; and—
- (a) such a lease, licence or agreement has effect while the control order is in force as if the local housing authority were substituted in it for any party to it who has an estate or interest in the house and is not a person to whom this section applies, and
  - (b) such a lease continues to have effect as near as may be as a lease notwithstanding that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises.
- (3) The provisions which exclude local authority lettings from the Rent Acts, that is—
- (a) sections 14 to 16 of the Rent Act 1977, and
  - (b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 and section 5(2) to (4) of that Act,
- do not apply to a lease or agreement under which a person to whom this section applies is occupying part of the house.
- (4) If immediately before the control order came into force a person to whom this section applies was occupying part of the house under—
- (a) a protected or statutory tenancy within the meaning of the Rent Act 1977, or
  - (b) a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976,
- nothing in this Part prevents the continuance of that tenancy or occupancy or affects the continued operation of either of those Acts in relation to the tenancy or occupancy after the coming into force of the control order.
- (5) So much of the regulations made under section 369 (regulations prescribing management code) as imposes duties on persons who live in a house to which the regulations apply also applies to persons who live in a house as respects which a control order is in force.

### **383 Effect of control order in relation to furniture in case of furnished letting.**

- (1) If on the date on which the control order comes into force there is furniture in the house which a resident in the house has the right to use in consideration of periodical payments to the dispossessed proprietor, whether included in the rent payable by the resident or not, the right to possession of the furniture as against all persons other than the resident vests in the local housing authority on that date and remains vested in the authority while the control order remains in force.
- (2) The authority may, on the application in writing of the person owning such furniture, by notice in writing served on that person not less than two weeks before the notice takes effect, renounce the right to possession of the furniture conferred by subsection (1).
- (3) If the local housing authority's right to possession of furniture conferred by subsection (1) is a right exercisable as against more than one person interested in the furniture, any of those persons may apply to the county court for an adjustment of their respective rights and liabilities as regards the furniture.

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- (4) On such an application the county court may make an order for such an adjustment of rights and liabilities either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise) as it thinks just and equitable.
- (5) In this section “furniture” includes fittings and other articles.

### **384 Appeal against control order.**

- (1) A person having an estate or interest in a house to which a control order relates or, subject to subsection (3), any other person may appeal to the county court against the control order on any of the following grounds—
  - (a) that, whether or not the local housing authority have made an order or issued a notice or direction under any of the provisions of this Part mentioned in section 379(1)(a) to (c) the state or condition of the house was not such as to call for the taking of action under any of those provisions;
  - (b) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house;
  - (c) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local housing authority to exercise their powers under section 380 so as to exclude from the provisions of the control order a part of the house (or a greater part than has been excluded);
  - (d) that the control order is invalid on the ground that a requirement of this Part has not been complied with or on the ground of some informality, defect or error in, or in connection with the control order.
- (2) An appeal may be brought at any time after the making of the control order but not later than the expiration of a period of six weeks from the date on which the local housing authority serve a copy of a management scheme relating to the house in accordance with section 386, or such longer period as the authority may in writing allow.
- (3) The court may, before entertaining an appeal brought by a person who had not, when he brought an appeal, an estate or interest in the house, require the appellant to satisfy the court that he may be prejudiced by the making of the order.
- (4) In so far as an appeal is based on the ground that the control order is invalid, the court shall confirm the order unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (5) Further provisions as to certain matters arising on the revocation of a control order on appeal are contained in Part III of Schedule 13.
- (6) Subject to the right of appeal conferred by this section, a control order is final and conclusive as to any matter which would have been raised on such an appeal.

### **385 General duties of local housing authority when control order is in force.**

- (1) The local housing authority shall—
  - (a) exercise the powers conferred on them by a control order so as to maintain proper standards of management in the house,

- (b) take such action as is needed to remedy all the matters which they would have considered it necessary to remedy by the taking of action under any other provision of this Act if they had not made a control order, and
  - (c) make reasonable provision for insurance of the premises subject to the control order against destruction or damage by fire or other cause.
- (2) The reference in subsection (1)(c) to the premises subject to the control order includes any part of the premises excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (3) Premiums paid for the insurance of the premises shall be treated for the purposes of this Part as expenditure incurred by the authority in respect of the premises.

### **386 Duty to prepare management scheme.**

- (1) After a control order has been made, the local housing authority shall prepare a management scheme and shall, not later than eight weeks after the date on which the control order comes into force, serve a copy of the scheme on—
  - (a) every person who is, to the knowledge of the authority, a dispossessed proprietor or an owner, lessee or mortgagee of the house, and
  - (b) any other person on whom the authority served a copy of the control order.
- (2) Part I of Schedule 13 has effect with respect to the matters to be provided for in a management scheme and for appeals against such schemes and related matters.
- (3) This section does not affect the powers conferred on the local housing authority by section 381 (general effect of control order), and accordingly the authority may carry out works in a house which is subject to a control order whether or not particulars of the works have been included in a management scheme.

### **387 Right of entry for inspection and carrying out of works.**

- (1) The local housing authority, and any person authorised in writing by the authority, have, as against a person having an estate or interest in a house which is subject to a control order, the right at all reasonable times to enter any part of the house for the purpose of survey and examination or of carrying out works.
- (2) The right conferred by subsection (1) is without prejudice to the rights conferred on the authority by section 381 (general effect of control order).
- (3) Where part of a house is excluded from the provisions of a control order under section 380 (modification of order where dispossessed proprietor resides in part of the house), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of survey and examination of, or carrying out works in, the part of the house which is subject to the control order.
- (4) If the occupier of part of a house subject to a control order, after receiving notice of the intended action, prevents any officers, agents, servants, or workmen of the local housing authority from carrying out work in the house a magistrates' court may order him to permit to be done on the premises anything which the authority consider necessary.
- (5) A person who fails to comply with an order of the court under subsection (4) commits a summary offence and is liable to a fine not exceeding level 3 on the standard scale

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and to a further fine not exceeding £20 for every day or part of a day during which the failure continues.

**388 Power to supply furniture and fittings.**

The local housing authority may fit out, furnish and supply a house subject to a control order with such furniture, fittings and conveniences as appear to them to be required.

**389 Compensation payable to dispossessed proprietor.**

- (1) The local housing authority shall pay compensation to the dispossessed proprietor—
  - (a) in respect of the period during which the control order is in force, at a rate calculated in accordance with Part II of Schedule 13 by reference to the rateable value of the house;
  - (b) in respect of a period during which the authority have the right to possession of furniture in pursuance of section 383 (house subject to furnished letting when control order made), at such rate as the parties agree or is determined in default of agreement by the rent tribunal for the district in which the house is situated.
- (2) Compensation accrues from day to day (and is apportionable in respect of time accordingly) and is payable by quarterly instalments, the first instalment being payable three months after the date when the control order comes into force.
- (3) If at the time when compensation accrues due the estate or interest of the dispossessed proprietor or, as the case may be, the furniture in question is subject to a mortgage or charge, the compensation is also comprised in the mortgage or charge.

**390 Facilities to be afforded to dispossessed proprietor and others.**

- (1) The local housing authority shall—
  - (a) keep full accounts of their income and expenditure in respect of a house which is subject to a control order, and
  - (b) afford to the dispossessed proprietor, or any other person having an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (2) While a control order is in force the local housing authority shall afford to the dispossessed proprietor, or any other person having an estate or interest in the house, any reasonable facilities requested by him for inspecting and examining the house.

**391 Power of court to modify or determine lease.**

- (1) Either the lessor or lessee under a lease of premises which consist of or include a house which is subject to a control order, other than a lease to which section 382(2) applies (leases under which persons are occupying parts of the house and which have effect as if the local housing authority were substituted as landlord), may apply to the county court for an order for the determination of the lease or for its variation.
- (2) If on such an application the court is satisfied that—
  - (a) if the lease is determined and the control order is revoked, the lessor will be in a position, and intends, to take all such action to remedy the condition of the house as the local housing authority consider they would, if a control order



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had not been in force, have required to be carried out under any provision of this Part, and

(b) that the authority intend, if the lease is determined, to revoke the control order, the court shall exercise the jurisdiction conferred by this section so as to determine the lease.

- (3) An order under this section may be unconditional or subject to such terms and conditions as the court thinks just and equitable to impose having regard to the respective rights, obligations and liabilities of the parties under the lease and to the other circumstances.
- (4) The terms and conditions may include terms or conditions with respect to the payment of money by a party to the proceedings to another party to the proceedings, by way of compensation, damages or otherwise.
- (5) An order under this section may include provisions for modifying in relation to the lease the effect of the provisions of paragraph 15 of Schedule 13 (re-transfer of the landlord's interest on the cessation of the control order).

### **392 Expiry or revocation of control order.**

- (1) A control order ceases to have effect at the expiry of the period of five years beginning with the date on which it came into force.
- (2) The local housing authority may at any earlier time, either on application or on their own initiative, by order revoke a control order.
- (3) The authority shall, at least 21 days before revoking a control order, serve notice of their intention to do so on—
  - (a) the persons occupying any part of the house, and
  - (b) every person who is to the knowledge of the authority an owner, lessee or mortgagee of the house.
- (4) If a person applies to the local authority requesting the authority to revoke a control order and giving the grounds on which the application is made, the authority shall if they refuse the application inform the applicant of their decision and of their reasons for rejecting the grounds advanced by him.
- (5) Where the local housing authority propose to revoke a control order under this section on their own initiative and apply to the county court under this subsection, the court may approve the taking of any of the following steps to take effect on the revocation of the control order, that is—
  - (a) the serving of a notice under section 352, 366 or 372 (notices requiring the execution of works),
  - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
  - (c) the making of an order under section 370 (order applying management code to house);and no appeal lies against a notice or order so approved.

### **393 Appeal against refusal to revoke control order.**

- (1) If the local housing authority—

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- (a) refuse an application under section 392 for the revocation of a control order, or
  - (b) do not within 42 days from the making of such an application or such further period as the applicant may in writing allow, inform him of their decision,
- the applicant may appeal to the county court and the county court may revoke the order.
- (2) The court shall revoke the control order if—
- (a) the appellant has an estate or interest in the house which, apart from the rights conferred on the local housing authority by section 381 (general effect of control order) and the rights of persons occupying any part of the house, would give him the right to possession of the house,
  - (b) that estate or interest was, when the control order came into force, subject to a lease for a term of years which has subsequently expired, and
  - (c) the appellant satisfies the court that he is in a position and intends, if the control order is revoked, to demolish or reconstruct the house or to carry out substantial work of construction on the site of the house;
- and if the court is not so satisfied but would be so satisfied if the date of revocation of the control order were a date later than the hearing of the appeal, the court shall, if the appellant so requires, make an order for the revocation of the control order on that later date.
- (3) If an appeal is brought under this section, the leave of the court is required for the bringing of another appeal against the same order, whether by the same or a different appellant, within the period of six months beginning with the final determination of the previous appeal.
- (4) Further provisions as to certain matters arising on the revocation of a control order on appeal are contained in Part III of Schedule 13.

### **394 Cessation of control order.**

Further provisions as to matters arising on the cessation of a control order are contained in Parts III and IV of Schedule 13—

Part III relates to the cessation of control orders generally, and

Part IV provides for the case where a control order is followed by a compulsory purchase order.