



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART VII

OVERCROWDING

Responsibility of occupier

139 Penalty for occupier causing or permitting overcrowding.

- (1) The occupier of a house who causes or permits it to be overcrowded is guilty of an offence, subject to subsection (2).
- (2) The occupier is not guilty of an offence—
 - (a) if the overcrowding is within the exceptions specified in sections 140 or 141 (children attaining [^{F1}age of one or 10] or temporary visitor), or
 - (b) by reason of anything done under the authority of, and in accordance with any conditions specified in, a licence granted by the local authority under section 142 or a resolution passed under section 143.
- (3) A person committing an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Textual Amendments

- F1** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 5](#)

140 Exception: children attaining age of 1 or 10.

- (1) Where a house which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining the age of one or 10, the occupier does not commit an offence under section 139(1) (occupier causing or permitting overcrowding), so long as the condition in subsection (2) is met and the occupier does not fail to accept an

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offer of suitable alternative accommodation or to secure the removal of any person living in the house who is not a member of his family and whose removal is reasonably practicable.

- (2) The condition is that all the persons sleeping in the house are persons who were living there when the child attained that age and thereafter continuously live there, or children born after that date of any of those persons.

141 Exception: temporary visitor.

—The occupier of a house shall not be guilty of an offence under section 139(1) in respect of overcrowding if the overcrowding is caused by a temporary resident whose stay does not exceed 16 days and to whom lodging is given by the occupier otherwise than for gain.

142 Licence of local authority.

- (1) The occupier or intending occupier of a house may apply to the local authority for a licence authorising him to permit a number of persons in excess of the permitted number to sleep in the house.
- (2) The authority may grant such a licence if it appears to them that there are exceptional circumstances and that it is expedient to do so; and they shall specify in the licence the number of persons authorised in excess of the permitted number.
- (3) The licence shall be in the prescribed form and may be granted either unconditionally or subject to conditions specified in it.
- (4) The local authority may revoke the licence at their discretion by notice in writing served on the occupier and specifying a period (at least one month from the date of service) at the end of which the licence will cease to be in force.
- (5) Unless previously revoked, the licence continues in force for such period not exceeding twelve months as may be specified in it.
- (6) A copy of the licence and of any notice of revocation shall, within seven days of the issue of the licence or the service of the notice on the occupier, be served by the local authority on the landlord (if any) of the house.

143 Exception: holiday visitors.

- (1) A local authority may, for the purpose of providing for a seasonal increase of holiday visitors in their area, pass a resolution authorising—
- (a) the occupiers of houses generally;
 - (b) the occupiers of houses of a specified class,
- in their area or any specified part of it to permit such number of persons in excess of the permitted number as may be specified to sleep in those houses during any period it is in force.
- (2) Such a resolution—
- (a) requires the approval of the Secretary of State;
 - (b) is subject to such conditions as may be specified in it; and
 - (c) remains in force during the year in which it is passed for such period or periods not exceeding 16 weeks in the aggregate as it may specify.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(3)(i)s. 21(3)(ai)(ii) by [2001 asp 10 Sch. 10 para. 13\(3\)\(c\)](#)[para. 13\(I\)-\(iii\)](#)
- s. 24(3)(f) and word(s) inserted by [2003 asp 10 s. 5\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 31(2C)(c) words substituted by [2004 asp 8 Sch. 4 para. 2](#)
- s. 61(2)(a)(ia) by [2001 asp 10 Sch. 10 para. 13\(6\)\(a\)\(ii\)](#)
- s. 63(1A)-(61C) by [2001 asp 10 s. 46\(2\)](#)
- s. 66(1)(vi)(vii) by [2001 asp 10 Sch. 10 para. 13\(9\)\(b\)](#)
- s. 286(a)(c) by [2001 asp 10 Sch. 10 para. 13\(40\)\(a\)\(b\)](#)