



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART VIII

#### HOUSES IN MULTIPLE OCCUPATION

##### *Overcrowding*

#### **166 Local authority may give directions to prevent or reduce overcrowding in house in multiple occupation**

- (1) A local authority may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or further notice under section 161, fix as a limit for any house what is in their opinion the highest number of individuals who should, having regard to the considerations set out in subsections (1) and (2) of that section, live in the house in its existing condition, and give a direction applying that limit to the house.

References in this section to a house include references to part of a house, and the local authority shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

- (2) The powers conferred by this section shall be exercisable whether or not a notice has been given under section 161 and where a local authority have served a notice under subsection (3) of that section specifying the number of individuals or households, or both, which in the opinion of the authority any premises could reasonably accommodate if the works specified in the notice were carried out, the authority may adopt that number of individuals, or a number of individuals determined by reference to that number of households, in fixing a limit under subsection (1) as respects those premises.
- (3) The powers conferred by subsection (1) may be exercised as regards any premises notwithstanding the existence of any previous direction under the subsection laying down a higher maximum.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A direction under subsection (1) shall have effect so as to make it the duty of the occupier for the time being of the house—
- (a) not to permit any individual to take up residence in the house so as to increase the number of individuals living in the house to a number above the limit specified in the direction, and
  - (b) where the number of individuals living in the house is for the time being above the limit so specified and any individual ceases to reside in the house, not to permit any other individual to take up residence in the house.

In this subsection the reference to the occupier for the time being of a house shall include a reference to any person who is for the time being entitled or authorised to permit individuals to take up residence in the house or any part of it.

- (5) If any person knowingly fails to comply with the requirements imposed on him by subsection (4) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **167 Notice of direction**

- (1) A local authority shall, not less than 7 days before giving a direction under section 166—
- (a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to give the direction, and
  - (b) post such a notice in some position in the house where it is accessible to those living in the house,
- and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to give the direction.
- (2) The local authority shall within 7 days from the giving of any such direction—
- (a) serve a copy of the direction on an owner of the house and on every person who is to their knowledge a lessee of the house, and
  - (b) post a copy of the direction in some position in the house where it is accessible to those living in the house.

#### **168 Power to require information where notice is in force**

- (1) The local authority may from time to time serve on the occupier of a house or part of a house in respect of which a direction under section 166 is in force a notice requiring him to furnish them within 7 days with a statement in writing giving all or any of the following particulars—
- (a) the number of individuals who are, on a date specified in the notice, living in the house or part of the house, as the case may be;
  - (b) the number of families or households to which those individuals belong;
  - (c) the names, ages and sex of those individuals and the names of the heads of each of those families or households;
  - (d) the rooms used by those individuals and families or households respectively.
- (2) If the occupier makes default in complying with the requirements or furnishes a statement which to his knowledge is false in any material particular, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **169 Revocation and variation**

- (1) At any time after giving such a direction the local authority may on the application of any person having an estate or interest in the house—
  - (a) revoke that direction, or
  - (b) vary it so as to allow more people to be accommodated in the house.
- (2) In exercising their powers under subsection (1) the local authority shall have regard to—
  - (a) any works which have been executed in the house, or
  - (b) any other change of circumstances.

### **170 Appeal against refusal**

- (1) If the local authority refuse an application under section 169 or do not within 42 days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the sheriff.
- (2) The sheriff may revoke the direction or vary it in any manner in which it might have been varied by the authority.