



# Housing Act 1985

## 1985 CHAPTER 68

### PART X **E+W**

#### OVERCROWDING

##### *Responsibility of occupier*

#### **327 Penalty for occupier causing or permitting overcrowding. **E+W****

- (1) The occupier of a dwelling who causes or permits it to be overcrowded commits a summary offence, subject to subsection (2).
- (2) The occupier is not guilty of an offence—
  - (a) if the overcrowding is within the exceptions specified in section 328 or 329 (children attaining age of 10 or visiting relatives), 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 housing authority under section 330.
- (3) A person committing an offence under this section is liable on conviction to a fine not exceeding [<sup>F1</sup>level 2] on the standard scale and to a further fine not exceeding [<sup>F2</sup>one-tenth of the amount corresponding to that level] in respect of every day subsequent to the date on which he is convicted on which the offence continues.

#### **Textual Amendments**

- F1** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 71\(a\)](#)
- F2** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 71\(b\)](#)

*Changes to legislation: Housing Act 1985, Cross Heading: Responsibility of occupier is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**328 Exception: children attaining age of 1 or 10. E+W**

- (1) Where a dwelling which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining the age of one or ten, then if the occupier—
  - (a) applies to the local housing authority for suitable alternative accommodation, or
  - (b) has so applied before the date when the child attained the age in question, he does not commit an offence under section 327 (occupier causing or permitting overcrowding), so long as the condition in subsection (2) is met and the occupier does not fail to take action in the circumstances specified in subsection (3).
- (2) The condition is that all the persons sleeping in the dwelling 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.
- (3) The exception provided by this section ceases to apply if—
  - (a) suitable alternative accommodation is offered to the occupier on or after the date on which the child attains that age, or, if he has applied before that date, is offered at any time after the application, and he fails to accept it, or
  - (b) the removal from the dwelling of some person not a member of the occupier's family is on that date or thereafter becomes reasonably practicable having regard to all the circumstances (including the availability of suitable alternative accommodation for that person and the occupier fails to require his removal.

**329 Exception; visiting member of family. E+W**

Where the persons sleeping in an overcrowded dwelling include a member of the occupier's family who does not live there but is sleeping there temporarily, the occupier is not guilty of an offence under section 327 (occupier causing or permitting overcrowding) unless the circumstances are such that he would be so guilty if that member of his family were not sleeping there.

**330 Licence of local housing authority. E+W**

- (1) The occupier or intending occupier of a dwelling may apply to the local housing authority for a licence authorising him to permit a number of persons in excess of the permitted number to sleep in the dwelling.
- (2) The authority may grant such a licence if it appears to them that there are exceptional circumstances (which may include a seasonal increase of population) 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 housing 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.

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- (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 housing authority on the landlord (if any) of the dwelling.

**Changes to legislation:**

Housing Act 1985, Cross Heading: Responsibility of occupier is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

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

- Act savings and transitional provisions for amendments by [S.I. 2022/1166](#) by [S.I. 2022/1172](#) Regulations

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

- s. 81A-81D and cross-heading inserted by [2016 c. 22 Sch. 7 para. 4](#) (This provision is amended by [2021 c. 7, ss. 79\(3\), 90\(6\)](#); [S.I. 2021/1038, reg. 3\(c\)](#))
- s. 81B(1)(b) words inserted by [2018 c. 11 s. 1\(3\)](#)
- s. 81B(2A)-(2C) inserted by [2018 c. 11 s. 1\(2\)](#)
- s. 81B(2C) words substituted by [2021 c. 17 s. 79\(3\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 81B by [2016 c. 22, Sch. 7 para. 4](#) is still prospective)
- s. 81B(2C) words substituted by [2021 c. 17 s. 79\(3\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 81B by [2016 c. 22, Sch. 7 para. 4](#) is still prospective)
- s. 81B(2D) inserted by [2021 c. 17 s. 79\(3\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 81B by [2016 c. 22, Sch. 7 para. 4](#) is still prospective)
- s. 82(A1)(A2) inserted by [2016 c. 22 s. 119\(2\)\(a\)](#)
- s. 82A(4A)(4B) inserted by [2016 c. 22 Sch. 7 para. 7\(2\)](#)
- s. 86(1A)(1B) inserted by [2016 c. 22 Sch. 7 para. 10\(3\)](#)
- s. 86(1C) inserted by [2016 c. 22 Sch. 8 para. 2](#)
- s. 86A-86F and cross-headings inserted by [2016 c. 22 Sch. 7 para. 11](#)
- s. 86G s. 86A renumbered as s. 86G by [2016 c. 22 Sch. 8 para. 3\(1\)\(a\)](#)
- s. 86G(8) inserted by [2016 c. 22 Sch. 8 para. 3\(2\)](#)
- s. 88(1)(ba) inserted by [2016 c. 22 Sch. 8 para. 4](#)
- s. 89(2A)-(2D) inserted by [2016 c. 22 Sch. 8 para. 5\(3\)](#)
- s. 97(1A) inserted by [2016 c. 22 Sch. 7 para. 12\(3\)](#)
- s. 99A(1A) inserted by [2016 c. 22 Sch. 7 para. 13\(3\)](#)
- s. 115B115C inserted by [2016 c. 22 Sch. 7 para. 15](#)
- s. 115B115C inserted by [2016 c. 22 Sch. 7 para. 15](#)
- s. 305(1A) inserted by [2023 asc 3 Sch. 13 para. 68\(b\)](#)
- s. 306(1A) inserted by [2023 asc 3 Sch. 13 para. 69\(b\)](#)
- s. 353A inserted by [1996 c. 52 s. 73\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 73 repealed (6.4.2006 for E., 16.6.2006 for W.) by [2004 c. 34, Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\), Sch.](#); [S.I. 2006/1535, art. 2\(c\), Sch.](#))
- s. 582(6)(aa)-(ac) substituted for s. 582(6)(a) by [2023 c. 55 Sch. 18 para. 4\(2\)\(b\)](#)
- Sch. 1 para. 1ZA and cross-heading inserted by [2016 c. 22 Sch. 7 para. 17\(2\)](#)
- Sch. 5A para. 3(3)(aa) inserted by [2023 c. 55 Sch. 18 para. 4\(3\)\(b\)\(ii\)](#)
- Sch. 5A para. 3(6A) inserted by [2023 c. 55 Sch. 18 para. 4\(3\)\(d\)](#)