



Housing Act 1985

1985 CHAPTER 68

PART X

OVERCROWDING

Definition of overcrowding

324 Definition of overcrowding.

A dwelling is overcrowded for the purposes of this Part when the number of persons sleeping in the dwelling is such as to contravene—

- (a) the standard specified in section 325 (the room standard), or
- (b) the standard specified in section 326 (the space standard).

325 The room standard.

- (1) The room standard is contravened when the number of persons sleeping in a dwelling and the number of rooms available as sleeping accommodation is such that two persons of opposite sexes who are not living together as husband and wife must sleep in the same room.
- (2) For this purpose—
 - (a) children under the age of ten shall be left out of account, and
 - (b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

326 The space standard.

- (1) The space standard is contravened when the number of persons sleeping in a dwelling is in excess of the permitted number, having regard to the number and floor area of the rooms of the dwelling available as sleeping accommodation.
- (2) For this purpose—

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- (a) no account shall be taken of a child under the age of one and a child aged one or over but under ten shall be reckoned as one-half of a unit, and
 - (b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a living room or as a bedroom.
- (3) The permitted number of persons in relation to a dwelling is whichever is the less of—
- (a) the number specified in Table I in relation to the number of rooms in the dwelling available as sleeping accommodation, and
 - (b) the aggregate for all such rooms in the dwelling of the numbers specified in column 2 of Table II in relation to each room of the floor area specified in column 1

No account shall be taken for the purposes of either Table of a room having a floor area of less than 50 square feet.

TABLE I

<i>Number of rooms</i>	<i>Number of persons</i>
1	2
2	3
3	5
4	7½
5 or more	2 for each room

TABLE II

<i>Floor area of room</i>	<i>Number of persons</i>
110 sq. ft. or more	2
90 sq. ft. or more but less than 110 sq.ft.	1½
70 sq. ft. or more but less than 90 sq. ft.	1
50 sq. ft. or more but less than 70 sq. ft.	½

- (4) The Secretary of State may by regulations prescribe the manner in which the floor area of a room is to be ascertained for the purposes of this section; and the regulations may provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a specified height not exceeding eight feet.
- (5) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A certificate of the local housing authority stating the number and floor areas of the rooms in a dwelling, and that the floor areas have been ascertained in the prescribed manner, is prima facie evidence for the purposes of legal proceedings of the facts stated in it.

Responsibility of occupier

327 Penalty for occupier causing or permitting overcrowding.

- (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 level 1 on the standard scale and to a further fine not exceeding £2 in respect of every day subsequent to the date on which he is convicted on which the offence continues.

328 Exception: children attaining age of 1 or 10.

- (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.

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.

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330 Licence of local housing authority.

- (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.
- (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.

Responsibilities of landlord

331 Penalty for landlord causing or permitting overcrowding.

- (1) The landlord of a dwelling commits a summary offence if he causes or permits it to be overcrowded.
- (2) He shall be deemed to cause or permit it to be overcrowded in the following circumstances, and not otherwise—
 - (a) if he or a person effecting the letting on his behalf had reasonable cause to believe that the dwelling would become overcrowded in circumstances rendering the occupier guilty of an offence;
 - (b) if he or a person effecting the letting on his behalf failed to make inquiries of the proposed occupier as to the number, age and sex of the persons who would be allowed to sleep in the dwelling;
 - (c) if notice is served on him or his agent by the local housing authority that the dwelling is overcrowded in such circumstances as to render the occupier guilty of an offence and he fails to take such steps as are reasonably open to him for securing the abatement of the overcrowding, including if necessary legal proceedings for possession of the dwelling.
- (3) A person committing an offence under this section is liable on conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 in respect of every day subsequent to the day on which he is convicted on which the offence continues.

332 Information to be contained in rent book.

- (1) Every rent book or similar document used in relation to a dwelling by or on behalf of the landlord shall contain—
 - (a) a summary in the prescribed form of the preceding provisions of this Part, and
 - (b) a statement of the permitted number of persons in relation to the dwelling.
- (2) If a rent book or similar document not containing such a summary and statement is used by or on behalf of the landlord, the landlord is guilty of a summary offence and liable on conviction to a fine not exceeding level 1 on the standard scale.
- (3) The local housing authority shall on the application of the landlord or the occupier of a dwelling inform him in writing of the permitted number of persons in relation to the dwelling; and a statement inserted in a rent book or similar document which agrees with information so given shall be deemed to be a sufficient and correct statement.

333 Duty to inform local housing authority of overcrowding.

- (1) Where it comes to the knowledge of the landlord of a dwelling, or of his agent, that the dwelling is overcrowded, then, except in the cases mentioned in subsection (2), the landlord or, as the case may be, the agent shall give notice of the fact of overcrowding to the local housing authority within seven days after that fact first comes to his knowledge.
- (2) The obligation to notify does not arise in the case of overcrowding which—
 - (a) has already been notified to the local housing authority,
 - (b) has been notified to the landlord or his agent by the local housing authority, or
 - (c) is constituted by the use of the dwelling for sleeping by such number of persons as the occupier is authorised to permit to sleep there by a licence in force under section 330 (licence of local housing authority).
- (3) A landlord or agent who fails to give notice in accordance with this section commits a summary offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

Powers and duties of local housing authority

334 Duty to inspect, report and prepare proposals.

- (1) If it appears to the local housing authority that occasion has arisen for a report on overcrowding in their district or part of it, or if the Secretary of State so directs, the authority shall—
 - (a) cause an inspection to be made,
 - (b) prepare and submit to the Secretary of State a report showing the result of the inspection and the number of new dwellings required in order to abate the overcrowding, and
 - (c) unless they are satisfied that the dwellings will be otherwise provided, prepare and submit to the Secretary of State proposals for providing the required number of new dwellings.
- (2) Where the Secretary of State gives a direction under subsection (1), he may after consultation with the local housing authority fix dates before which the performance of their functions under that subsection is to be completed.

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335 Power to require information about persons sleeping in dwelling.

- (1) The local housing authority may, for the purpose of enabling them to discharge their duties under this Part, serve notice on the occupier of a dwelling requiring him to give them within 14 days a written statement of the number, ages and sexes of the persons sleeping in the dwelling.
- (2) The occupier commits a summary offence if—
 - (a) he makes default in complying with the requirement, or
 - (b) he gives a statement which to his knowledge is false in a material particular, and is liable on conviction to a fine not exceeding level 1 on the standard scale.

336 Power to require production of rent book.

- (1) A duly authorised officer of the local housing authority may require an occupier of a dwelling to produce for inspection any rent book or similar document which is being used in relation to the dwelling and is in his custody or under his control.
- (2) On being so required, or within seven days thereafter, the occupier shall produce any such book or document to the officer or at the offices of the authority.
- (3) An occupier who fails to do so commits a summary offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

337 Power of entry to determine permitted number of persons.

- (1) A person authorised by the local housing authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of measuring the rooms of a dwelling in order to ascertain for the purposes of this Part the number of persons permitted to use the dwelling for sleeping.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which the entry is authorised.

338 Notice to abate overcrowding.

- (1) Where a dwelling is overcrowded in circumstances such as to render the occupier guilty of an offence, the local housing authority may serve on the occupier notice in writing requiring him to abate the overcrowding within 14 days from the date of service of the notice.
- (2) If at any time within three months from the end of that period—
 - (a) the dwelling is in the occupation of the person on whom the notice was served or of a member of his family, and
 - (b) it is overcrowded in circumstances such as to render the occupier guilty of an offence,

the local housing authority may apply to the county court which shall order vacant possession of the dwelling to be given to the landlord within such period, not less than 14 or more than 28 days, as the court may determine.

- (3) Expenses incurred by the local housing authority under this section in securing the giving of possession of a dwelling to the landlord may be recovered by them from him by action.

Supplementary provisions

339 Enforcement of this Part.

- (1) The local housing authority shall enforce the provisions of this Part.
- (2) A prosecution for an offence against those provisions may be brought only—
 - (a) by the local housing authority, or
 - (b) in the case of a prosecution against the authority themselves, with the consent of the Attorney General.

340 Powers of entry.

- (1) A person authorised by the local housing authority may at all reasonable times, on giving 24 hours' notice to the occupier, and to the owner if the owner is known, enter any premises for the purpose of survey and examination where it appears to the authority that survey or examination is necessary in order to determine whether any powers under this Part should be exercised.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which it is given.

341 Penalty for obstruction.

- (1) It is a summary offence to obstruct an officer of the local housing authority, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

342 Meaning of “suitable alternative accommodation”.

- (1) In this Part “suitable alternative accommodation”, in relation to the occupier of a dwelling, means a dwelling as to which the following conditions are satisfied—
 - (a) he and his family can live in it without causing it to be overcrowded;
 - (b) it is certified by the local housing authority to be suitable to his needs and those of his family as respects security of tenure, proximity to place of work and otherwise, and to be suitable in relation to his means;
 - (c) where the dwelling belongs to the local housing authority, it is certified by them to be suitable to his needs and those of his family as respects accommodation.
- (2) For the purpose of subsection (1)(c) a dwelling containing two bedrooms shall be treated as providing accommodation for four persons, a dwelling containing three bedrooms shall be treated as providing accommodation for five persons and a dwelling

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containing four bedrooms shall be treated as providing accommodation for seven persons.

343 Minor definitions.

In this Part—

“agent”, in relation to the landlord of a dwelling—

- (a) means a person who collects rent in respect of the dwelling on behalf of the landlord, or is authorised by him to do so, and
- (b) in the case of a dwelling occupied under a contract of employment under which the provision of the dwelling for his occupation forms part of the occupier’s remuneration, includes a person who pays remuneration on behalf of the employer, or is authorised by him to do so;

“dwelling” means premises used or suitable for use as a separate dwelling;

“landlord”, in relation to a dwelling—

- (a) Means the immediate landlord of an occupier of the dwelling, and
- (b) in the case of a dwelling occupied under a contract of employment under which the provision of the dwelling for his occupation forms part of the occupier’s remuneration, includes the occupier’s employer;

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

344 Index of defined expressions:Part X.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

agent (in relation to the landlord of a dwelling)	section 343
district (of a local housing authority)	section 2(1)
dwelling	section 343
landlord	sections 343 and 621
local housing authority	section 1, 2(2)
overcrowding (and related expressions)	section 324
owner	section 343
permitted number (of persons sleeping in a dwelling)	section 326
prescribed	section 614
standard scale (in reference to the maximum fine on summary conviction)	section 622

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suitable alternative accommodation

| section 342