



# Housing Act 1985

## 1985 CHAPTER 68

### PART XI

#### HOUSES IN MULTIPLE OCCUPATION

##### Modifications etc. (not altering text)

- C1** Pt. XI (ss. 345–400): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 65\(2\)\(4\)](#)
- C2** Pt. XI (ss. 345-400) applied (17.12.1996) by [1996 c. 53, s. 90\(b\)](#); S.I. 1996/2842, [art. 3](#) (with transitional, supplementary and saving provisions in [arts. 5-8](#))

##### *Introductory*

#### **345 Meaning of “multiple occupation”.**

In this Part “house in multiple occupation” means a house which is occupied by persons who do not form a single household.

[<sup>F1</sup>(2) For the purposes of this section “house”, in the expression “house in multiple occupation”, includes any part of a building which—

- (a) apart from this subsection would not be regarded as a house; and
- (b) was originally constructed or subsequently adapted for occupation by a single household;

and any reference in this Part to a flat in multiple occupation is a reference to a part of a building which, whether by virtue of this subsection or without regard to it, constitutes a house in multiple occupation.]

##### Textual Amendments

- F1** [S. 345\(2\)](#) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 165\(1\)\(c\)](#), [Sch. 9 Pt. III para. 44](#)

*Status: Point in time view as at 03/03/1997.*

*Changes to legislation: Housing Act 1985, PART XI is up to date with all changes known to be in force on or before 22 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)*

### Registration schemes

#### [<sup>F2</sup>346 Registration schemes.

- (1) A local housing authority may make a registration scheme authorising the authority to compile and maintain a register for their district of houses in multiple occupation.
- (2) A registration scheme need not be for the whole of the authority's district and need not apply to every description of house in multiple occupation.
- (3) A registration scheme may vary or revoke a previous registration scheme; and the local housing authority may at any time by order revoke a registration scheme.]

#### Textual Amendments

**F2** Ss. 346-346B substituted (1.10.1996 for specified purposes otherwise 3.3.1997) for s. 346 by 1996 c. 52, s. 65(1) (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

#### [<sup>F3</sup>346A Contents of registration scheme.

- (1) A registration scheme shall make it the duty of such person as may be specified by the scheme to register a house to which the scheme applies and to renew the registration as and when required by the scheme.
- (2) A registration scheme shall provide that registration under the scheme—
  - (a) shall be for a period of five years from the date of first registration, and
  - (b) may on application be renewed, subject to such conditions as are specified in the scheme, for further periods of five years at a time.
- (3) A registration scheme may—
  - (a) specify the particulars to be inserted in the register,
  - (b) make it the duty of such persons as may be specified by the scheme to give the authority as regards a house all or any of the particulars specified in the scheme,
  - (c) make it the duty of such persons as may be specified by the scheme to notify the authority of any change which makes it necessary to alter the particulars inserted in the register as regards a house.
- (4) A registration scheme shall, subject to subsection (5)—
  - (a) require the payment on first registration of a reasonable fee of an amount determined by the local housing authority, and
  - (b) require the payment on any renewal of registration of half the fee which would then have been payable on a first registration of the house.
- (5) The Secretary of State may by order make provision as to the fee payable on registration—
  - (a) specifying the maximum permissible fee (whether by specifying an amount or a method for calculating an amount), and
  - (b) specifying cases in which no fee is payable.
- (6) An order under subsection (5)—

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- (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F3** Ss. 346-346B substituted (1.10.1996 for specified purposes otherwise 3.3.1997) for s. 346 by 1996 c. 52, s. 65(1) (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

#### [<sup>F4</sup>346B Model schemes and confirmation of schemes.

- (1) The Secretary of State may prepare model registration schemes.
- (2) Model registration schemes may be prepared with or without control provisions (see section 347) or special control provisions (see section 348B); and different model schemes may be prepared for different descriptions of authorities and for different areas.
- (3) A registration scheme which conforms to a model scheme—
  - (a) does not require confirmation by the Secretary of State, and
  - (b) comes into force on such date (at least one month after the making of the scheme) as may be specified in the scheme.
- (4) Any other registration scheme does not come into force unless and until confirmed by the Secretary of State.
- (5) The Secretary of State may if he thinks fit confirm such a scheme with or without modifications.
- (6) A scheme requiring confirmation shall not come into force before it has been confirmed but, subject to that, comes into force on such date as may be specified in the scheme or, if no date is specified, one month after it is confirmed.]

#### Textual Amendments

**F4** Ss. 346-346B substituted (1.10.1996 for specified purposes otherwise 3.3.1997) for s. 346 by 1996 c. 52, s. 65(1) (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

#### [<sup>F5</sup>347 Control provisions.

- (1) A registration scheme may contain control provisions, that is to say, provisions for preventing multiple occupation of a house unless—
  - (a) the house is registered, and
  - (b) the number of households or persons occupying it does not exceed the number registered for it.
- (2) Control provisions may prohibit persons from permitting others to take up residence in a house or part of a house but shall not prohibit a person from taking up or remaining in residence in the house.

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- (3) Control provisions shall not prevent the occupation of a house by a greater number of households or persons than the number registered for it if all of those households or persons have been in occupation of the house without interruption since before the number was first registered.]

#### Textual Amendments

**F5** S. 347 substituted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 66 (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

#### [<sup>F6</sup>348 Control provisions: decisions on applications and appeals.

- (1) Control provisions may enable the local housing authority, on an application for first registration of a house or a renewal or variation of registration—
- (a) to refuse the application on the ground that the house is unsuitable and incapable of being made suitable for such occupation as would be permitted if the application were granted;
  - (b) to refuse the application on the ground that the person having control of the house or the person intended to be the person managing the house is not a fit and proper person;
  - (c) to require as a condition of granting the application that such works as will make the house suitable for such occupation as would be permitted if the application were granted are executed within such time as the authority may determine;
  - (d) to impose such conditions relating to the management of the house during the period of registration as the authority may determine.
- (2) Control provisions shall provide that the local housing authority shall give an applicant a written statement of their reasons where they—
- (a) refuse to grant his application for first registration or for a renewal or variation of registration,
  - (b) require the execution of works as a condition of granting such an application, or
  - (c) impose conditions relating to the management of the house.
- (3) Where the local housing authority—
- (a) notify an applicant that they refuse to grant his application for first registration or for the renewal or variation of a registration,
  - (b) notify an applicant that they require the execution of works as a condition of granting such an application,
  - (c) notify an applicant that they intend to impose conditions relating to the management of the house, or
  - (d) do not within five weeks of receiving the application, or such longer period as may be agreed in writing between the authority and the applicant, register the house or vary or renew the registration in accordance with the application,
- the applicant may, within 21 days of being so notified or of the end of the period mentioned in paragraph (d), or such longer period as the authority may in writing allow, appeal to the county court.
- (4) On appeal the court may confirm, reverse or vary the decision of the authority.

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- (5) Where the decision of the authority was a refusal—
  - (a) to grant an application for first registration of a house, or
  - (b) for the renewal or variation of the registration,the court may direct the authority to grant the application as made or as varied in such manner as the court may direct.
- (6) For the purposes of subsections (4) and (5) an appeal under subsection (3)(d) shall be treated as an appeal against a decision of the authority to refuse the application.
- (7) Where the decision of the authority was to impose conditions relating to the management of the house, the court may direct the authority to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.]

#### Textual Amendments

**F6** Ss. 348, 348A substituted (1.10.1996 for specified purposes otherwise 3.3.1997) for s. 348 by 1996 c. 52, s. 66 (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

#### [<sup>F7</sup>348A Control provisions: other decisions and appeals.

- (1) Control provisions may enable the local housing authority at any time during a period of registration (whether or not an application has been made)—
  - (a) to alter the number of households or persons for which a house is registered or revoke the registration on the ground that the house is unsuitable and incapable of being made suitable for such occupation as is permitted by virtue of the registration; or
  - (b) to alter the number of households or persons for which a house is registered or revoke the registration unless such works are executed within a specified time as will make the house in question suitable for such occupation as is permitted by virtue of the registration.
- (2) Control provisions which confer on a local housing authority any such power as is mentioned in subsection (1) shall provide that the authority shall, in deciding whether to exercise the power, apply the same standards in relation to the circumstances existing at the time of the decision as were applied at the beginning of the period of registration.
- (3) Control provisions may enable the local housing authority to revoke a registration if they consider that—
  - (a) the person having control of the house or the person managing it is not a fit and proper person, or
  - (b) there has been a breach of conditions relating to the management of the house.
- (4) Control provisions shall also provide that the local housing authority shall—
  - (a) notify the person having control of a house and the person managing it of any decision by the authority to exercise a power mentioned in subsection (1) or (3) in relation to the house, and
  - (b) at the same time give them a written statement of the authority's reasons.
- (5) A person who has been so notified may within 21 days of being so notified, or such longer period as the authority may in writing allow, appeal to the county court.

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(6) On appeal the court may confirm, reverse or vary the decision of the authority.]

**Textual Amendments**

**F7** Ss. 348, 348A substituted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 66 (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

**[<sup>F8</sup>348B Special control provisions.**

- (1) A registration scheme which contains control provisions may also contain special control provisions, that is, provisions for preventing houses in multiple occupation, by reason of their existence or the behaviour of their residents, from adversely affecting the amenity or character of the area in which they are situated.
- (2) Special control provisions may provide for the refusal or revocation of registration, for reducing the number of households or persons for which a house is registered and for imposing conditions of registration.
- (3) The conditions of registration may include conditions relating to the management of the house or the behaviour of its occupants.
- (4) Special control provisions may authorise the revocation of registration in the case of—
  - (a) occupation of the house by more households or persons than the registration permits, or
  - (b) a breach of any condition imposed in pursuance of the special control provisions,
 which is due to a relevant management failure.
- (5) Special control provisions shall not authorise the refusal of—
  - (a) an application for first registration of a house which has been in operation as a house in multiple occupation since before the introduction by the local housing authority of a registration scheme with special control provisions, or
  - (b) any application for renewal of registration of a house previously registered under such a scheme,
 unless there has been a relevant management failure.
- (6) Special control provisions may provide that in any other case where an application is made for first registration of a house the local housing authority may take into account the number of houses in multiple occupation in the vicinity in deciding whether to permit or refuse registration.]

**Textual Amendments**

**F8** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

**[<sup>F9</sup>348C Special control provisions: general provisions as to decisions and appeals.**

- (1) Special control provisions shall provide that the local housing authority shall give a written statement of their reasons to the applicant where they refuse to grant his application for first registration, or for a renewal or variation of a registration, or impose conditions of registration on such an application.

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- (2) Special control provisions shall provide that the authority shall give written notice to the person having control of the house and the person managing it of any decision by the authority—
- (a) to vary the conditions of registration (otherwise than on an application to which subsection (1) applies), or
  - (b) to revoke the registration of the house,
- and at the same time give them a written statement of the authority's reasons.
- (3) Where in accordance with special control provisions the local housing authority—
- (a) notify an applicant that they refuse to grant his application for first registration or for the renewal or variation of a registration,
  - (b) notify such an applicant of the imposition of conditions of registration, or
  - (c) give notice to the person having control or the person managing the house of any such decision as is mentioned in subsection (2),
- that person may, within 21 days of being so notified, or such longer period as the authority may in writing allow, appeal to the county court.
- (4) If on appeal it appears to the court—
- (a) that there has been any informality, defect or error in, or in connection with, the authority's decision, or
  - (b) that the authority acted unreasonably,
- the court may reverse or vary the decision of the authority.
- (5) In so far as an appeal is based on the ground mentioned in subsection (4)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (6) Where the decision of the authority was a refusal—
- (a) to grant an application for first registration of a house, or
  - (b) for the renewal or variation of the registration,
- the court may direct the authority to grant the application as made or as varied in such manner as the court may direct.
- (7) Where the decision of the authority was to impose conditions of registration, the court may direct the authority to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.]

#### Textual Amendments

**F9** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

#### [<sup>F10</sup>348DSpecial control provisions: occupancy directions.

- (1) Special control provisions may provide that where the local housing authority decide that the registration of a house should be revoked the authority may direct that the level of occupation of the house be reduced, within such period of not less than 28 days as they may direct, to a level such that the registration scheme does not apply.

Such a direction is referred to in this Part as an “occupancy direction”.

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- (2) Special control provisions shall provide that the authority shall only make an occupancy direction if it appears to the authority that there has been a relevant management failure resulting in a serious adverse effect on the amenity or character of the area in which the house is situated.
- (3) In considering whether to make an occupancy direction the authority shall take into account the interests of the occupants of the house and the person having control of the house as well as the interests of local residents and businesses.
- (4) Special control provisions may require the person having control of the house, and the person managing it, to take all reasonably practicable steps to comply with an occupancy direction.
- (5) Nothing in Part I of the <sup>M1</sup>Housing Act 1988 prevents possession being obtained by any person in order to comply with an occupancy direction.
- (6) Nothing in this section affects any liability in respect of any other contravention or failure to comply with control provisions or special control provisions.]

#### Textual Amendments

**F10** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

#### Marginal Citations

**M1** 1988 c. 50.

### [<sup>F11</sup>348E Special control provisions: decisions and appeals relating to occupancy directions.

- (1) Special control provisions shall provide that where the local housing authority make an occupancy direction in respect of a house they shall give written notice of the direction to the person having control of the house and the person managing it and at the same time give them a written statement of the authority's reasons.
- (2) A person aggrieved by an occupancy direction may, within 21 days after the date of the service of notice as mentioned in subsection (1), appeal to the county court.
- (3) If on appeal it appears to the court—
  - (a) that there has been any informality, defect or error in, or in connection with, the authority's decision, or
  - (b) that the authority acted unreasonably,
 the court may make such order either confirming, quashing or varying the notice as it thinks fit.
- (4) In so far as an appeal is based on the ground mentioned in subsection (3)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) If an appeal is brought the direction does not become operative until—
  - (a) a decision on the appeal confirming the direction (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or



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- (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the direction (with or without variation).
- (6) For this purpose the withdrawal of an appeal has the same effect as a decision confirming the direction or decision appealed against.]

**Textual Amendments**

**F11** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

[<sup>F12</sup>**348F Special control provisions: “relevant management failure”.**

A “relevant management failure” for the purposes of sections 348B to 348E (special control provisions) means a failure on the part of the person having control of, or the person managing, a house in multiple occupation to take such steps as are reasonably practicable to prevent the existence of the house or the behaviour of its residents from adversely affecting the amenity or character of the area in which the house is situated, or to reduce any such adverse effect.]

**Textual Amendments**

**F12** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

[<sup>F13</sup>**348G Offences in connection with registration schemes.**

- (1) A person who contravenes or fails to comply with a provision of a registration scheme commits an offence.
- (2) A person who commits an offence under this section consisting of a contravention of so much of control provisions as relates—
- (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
- (b) to occupation of a house which is registered by more households or persons than the registration permits,
- is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) A person who commits an offence under this section consisting of a contravention of so much of special control provisions as requires all reasonably practicable steps to be taken to comply with an occupancy direction is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person who commits any other offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

**Textual Amendments**

**F13** S. 348G inserted (3.3.1997) by 1996 c. 52, s. 68(1) (with s. 70); S.I. 1997/350, art. 2

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**[<sup>F14</sup>349 Steps required to inform public about schemes.**

- (1) Where a local housing authority intend to make a registration scheme which does not require confirmation by the Secretary of State, they shall publish notice of their intention at least one month before the scheme is made.

As soon as the scheme is made, the local housing authority shall publish a notice stating—

- (a) that a registration scheme which does not require confirmation has been made, and
- (b) the date on which the scheme is to come into force.

- (2) Where a local housing authority intend to submit to the Secretary of State a registration scheme which requires his confirmation, they shall publish notice of their intention at least one month before the scheme is submitted.

As soon as the scheme is confirmed, the local housing authority shall publish a notice stating—

- (a) that a registration scheme has been confirmed, and
- (b) the date on which the scheme is to come into force.

- (3) A notice under subsection (1) or (2) of the authority's intention to make a scheme or submit a scheme for confirmation shall—

- (a) describe any steps which will have to be taken under the scheme by those concerned with registrable houses (other than steps which have only to be taken after a notice from the authority), and
- (b) name a place where a copy of the scheme may be seen at all reasonable hours.

- (4) After publication of notice under subsection (1) or (2) that a registration scheme has been made or confirmed, and for as long as the scheme is in force, the local housing authority—

- (a) shall keep a copy of the scheme, and of the register, available for public inspection at the offices of the authority free of charge at all reasonable hours, and
- (b) on request, and on payment of such reasonable fee as the authority may require, shall supply a copy of the scheme or the register, or of any entry in the register, to any person.

- (5) If the local housing authority revoke a registration scheme by order they shall publish notice of the order.

- (6) In this section “publish” means publish in one or more newspapers circulating in the district of the local housing authority concerned.]

**Textual Amendments**

**F14** S. 349 substituted (3.3.1997) by 1996 c. 52, s. 69(1) (with s. 70); S.I. 1997/350, art. 2

**350 Power to require information for purposes of scheme.**

- (1) The local housing authority may—
- (a) for the purpose of ascertaining whether a house . . . <sup>F15</sup> is registrable, and

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- (b) for the purpose of ascertaining the particulars to be entered in the register as regards a house . . . <sup>F15</sup>,  
require [<sup>F16</sup>the person having control of the house or the person managing the house or any person] who has an estate or interest in, or who lives in, the house . . . <sup>F15</sup> to state in writing any information in his possession which the authority may reasonably require for that purpose.
- (2) A person who, having been required in pursuance of this section to give information to a local housing authority, fails to give the information, or knowingly makes a mis-statement in respect of it, commits a summary offence and is liable on conviction to a fine not exceeding
- [<sup>F17</sup>(a)] [<sup>F18</sup>level 3] on the standard scale [<sup>F19</sup>in the case of such a failure; or  
(b) [<sup>F20</sup>level 5] on the standard scale in the case of such a mis-statement].

#### Textual Amendments

- F15** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 48\(1\)](#), [Sch. 12 Pt. II](#)
- F16** Words in s. 350(1) substituted (3.3.1997) by 1996 c. 52, s. 69(2) (with s. 70); S.I. 1997/350, [art. 2](#)
- F17** “(a)” inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 48\(2\)](#)
- F18** Words in s. 350(2)(a) substituted (3.3.1997) by 1996 c. 52, s. 78(1)(a); S.I. 1997/350, [art. 2](#)
- F19** Words beginning “in the case” and s. 350(2)(b) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 48\(2\)](#)
- F20** Words in s. 350(2)(b) substituted (3.3.1997) by 1996 c. 52, s. 78(1)(b); S.I. 1997/350, [art. 2](#)

### 351 Proof of scheme and contents of register.

- (1) If there is produced a printed copy of a registration scheme purporting to be made by a local housing authority, upon which there is endorsed a certificate purporting to be signed by the proper officer of the authority stating—
- (a) that the scheme was made by the authority,  
(b) that the copy is a true copy of the scheme, and  
(c) [<sup>F21</sup>that the scheme did not require confirmation by the Secretary of State or]that on a specified date the scheme was confirmed by the Secretary of State,  
the certificate is prima facie evidence of the facts so stated without proof of the handwriting or official position of the person by whom it purports to be signed.
- (2) A document purporting to be a copy of an entry in a register kept under a registration scheme and to be certified as a true copy by the proper officer of the authority is prima facie evidence of the entry without proof of the handwriting or official position of the person by whom it purports to be signed.

#### Textual Amendments

- F21** Words in s. 351(1)(c) inserted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 65(2) (with s. 70); S.I. 1996/2402, [art. 4](#); S.I. 1997/350, [art. 2](#)

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*Fitness for the number of occupants*

**352 Power to require execution of works to render premises fit for number of occupants.**

- (1) [<sup>F22</sup>Subject to section 365] the local housing authority may serve a notice under this section where [<sup>F23</sup>in the opinion of the authority, a house in multiple occupation fails to meet one or more of the requirements in paragraphs (a) to (e) of subsection (1A) and, having regard to the number of individuals or households or both for the time being accommodated on the premises, by reason of that failure the premises are not reasonably suitable for occupation by those individuals or households.
- (1A) The requirements in respect of a house in multiple occupation referred to in subsection (1) are the following, that is to say,—
- (a) there are satisfactory facilities for the storage, preparation and cooking of food including an adequate number of sinks with a satisfactory supply of hot and cold water;
  - (b) it has an adequate number of suitably located water-closets for the exclusive use of the occupants;
  - (c) it has, for the exclusive use of the occupants, an adequate number of suitably located fixed baths or showers and wash-hand basins each of which is provided with a satisfactory supply of hot and cold water;
  - (d) subject to section 365, there are adequate means of escape from fire: and
  - (e) there are adequate other fire precautions.]
- (2) [<sup>F24</sup>Subject to subsection (2A)] the notice shall specify the works which in the opinion of the authority are required for rendering the [<sup>F25</sup>house] reasonably suitable—
- (a) for occupation by the individuals and households for the time being accommodated there, or
  - (b) for a smaller number of individuals or households and the number of individuals or households, or both, which, in the opinion of the authority, the [<sup>F25</sup>house] could reasonably accommodate if the works were carried out [<sup>F26</sup>but the notice shall not specify any works to any premises outside the house].
- [<sup>F27</sup>(2A) Where the authority have exercised or propose to exercise their powers under section 368 to secure that part of the house is not used for human habitation, they may specify in the notice such work only as in their opinion is required to meet such of the requirements in subsection (1A) as may be applicable if that part is not so used.]
- (3) The notice may be served—
- (a) on the person having control of the house, or
  - [<sup>F28</sup>(b) on the person managing the house;]
- and the authority shall inform any other person who is to their knowledge an owner, lessee [<sup>F29</sup>occupier] or mortgagee of the house of the fact that the notice has been served.
- (4) The notice shall require the person on whom it is served to execute the works specified in the notice [<sup>F30</sup>as follows, namely,—
- (a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and
  - (b) to complete those works within such reasonable period as is so specified.]

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- (5) If the authority are satisfied that—
- (a) after the service of a notice under this section the number of individuals living on the premises has been reduced to a level which will make the works specified in the notice unnecessary, and
  - (b) that number will be maintained at or below that level, whether in consequence of the exercise of the authority’s powers under section 354 (power to limit number of occupants of house) or otherwise,
- they may withdraw the notice by notifying that fact in writing to the person on whom the notice was served, but without prejudice to the issue of a further notice.

[<sup>F31</sup>(5A) A notice served under this section is a local land charge.

- (5B) Each local housing authority shall—
- (a) maintain a register of notices served by the authority under subsection (1) after the coming into force of this subsection;
  - (b) ensure the register is open to inspection by the public free of charge at all reasonable hours; and
  - (c) on request, and on payment of any such reasonable fee as the authority may require, supply copies of entries in the register to any person.]

(6) ..... <sup>F32</sup>

[<sup>F33</sup>(7) Where a local housing authority serve a notice under this section in respect of any of the requirements specified in subsection (1A), and the works specified in the notice are carried out, whether by the person on whom the notice was served or by the local housing authority under section 375, the authority shall not, within the period of five years from the service of the notice, serve another notice under this section in respect of the same requirement unless they consider that there has been a change of circumstances in relation to the premises.

(8) Such a change may, in particular, relate to the condition of the premises or the availability or use of the facilities mentioned in subsection (1A).]

#### Textual Amendments

- F22** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(1)**
- F23** Words beginning “in the opinion” and s. 352(1A) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(1)** it is provided that in s. 352(1)
- F24** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(2)**
- F25** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(2)**
- F26** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(2)**
- F27** S. 352(2A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(3)**
- F28** S. 352(3)(b) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(4)**
- F29** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\)](#), **Sch. 9 Pt. III para. 49(4)**

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- F30** Words beginning “as follows,” and s. 352(4)(a)(b) substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 50(a)**
- F31** [S. 352\(5A\)\(5B\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 49(5)**
- F32** [S. 352\(6\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 49\(6\)](#), **Sch. 12 Pt. II**
- F33** [S. 352\(7\)\(8\)](#) inserted (3.3.1997) by [1996 c. 52, s. 71\(1\)](#) (with s. 71(2)); [S.I. 1997/350, art. 2](#)

### [<sup>F34</sup>352A Recovery of expenses of notice under s.352.

- (1) A local housing authority may, as a means of recovering certain administrative and other expenses incurred by them in serving a notice under section 352, make such reasonable charge as they consider appropriate.
- (2) The expenses are the expenses incurred in—
  - (a) determining whether to serve a notice under that section,
  - (b) identifying the works to be specified in the notice, and
  - (c) serving the notice.
- (3) The amount of the charge shall not exceed such amount as is specified by order of the Secretary of State.
- (4) A charge under this section may be recovered by the authority from any person on whom the notice under section 352 is served.
- (5) The provisions of Schedule 10 apply to the recovery by the authority of a charge under this section as they apply to the recovery of expenses incurred by the authority under section 375 (expenses of carrying out works required by notice).
- (6) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) This section has effect subject to any order under section 353(6) (power of court on appeal against s.352 notice).]

#### Textual Amendments

- F34** [S. 352A](#) inserted (1.10.1996 for specified purposes otherwise 3.3.1997) by [1996 c. 52, s. 72\(1\)](#) (with s. 72(3)); [S.I. 1996/2402, art. 4](#); [S.I. 1997/350, art. 2](#)

#### Modifications etc. (not altering text)

- C3** [S. 352A](#) restricted (3.3.1997) by [S.I. 1997/228, art. 2](#)

### 353 Appeal against notice under s. 352.

- (1) A person on whom a notice is served under section 352 (notice requiring works to render premises fit for number of occupants), or any other person who is an owner, lessee or mortgagee of the premises to which the notice relates, may, within 21 days

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from the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court.

- (2) The appeal may be on any of the following grounds—
- (a) that the condition of the premises did not justify the authority, having regard to the <sup>F35</sup>requirements set out in subsection (1A)] of that section, in requiring the execution of the works specified in the notice;
  - (b) in the case of a notice under subsection (2)(b) of that section (notice requiring works to render premises fit for smaller number of occupants), that the number of individuals or households, or both, specified in the notice is unreasonably low;
  - (c) that there has been some informality, defect or error in, or in connection with, the notice;
  - (d) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - <sup>F36</sup>(dd) that the date specified for the beginning of the works is not reasonable]
  - (e) that the time within which the works are to be executed is not reasonably sufficient for the purpose; or
  - (f) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as holder of an estate or interest in the premises derive a benefit from their execution, and ought to pay the whole or a part of the expenses of executing them.
- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(c) the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) If on an appeal the court is satisfied that—
- (a) the number of persons living in the premises has been reduced, and
  - (b) adequate steps have been taken (by the exercise of the local housing authority's powers under section 354 (power to limit number of occupants of house) or otherwise) to prevent that number being again increased.
- the court may if it thinks fit revoke the notice or vary the list or works specified in the notice.
- (5) Where the grounds on which an appeal is brought include the ground mentioned in subsection (2)(f), the court, if satisfied that the other person referred to in the notice of appeal has had proper notice of the appeal, may on the hearing of the appeal make such order as it thinks fit with respect to payment to be made by him to the appellant or, where the works are executed by the local housing authority, to the authority.
- <sup>F37</sup>(6) Where the court allows an appeal under this section or makes an order under subsection (5), it may make such order as it thinks fit reducing, quashing or requiring the repayment of any charge under section 352A made in respect of the notice to which the appeal relates.]

#### Textual Amendments

**F35** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 51\(a\)](#)

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**F36** S. 353(2)(dd) inserted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 51(b)**

**F37** S. 353(6) inserted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 72(2) (with s. 72(3)); S.I. 1996/2402, **art. 4**; S.I. 1997/350, **art. 2**

**Modifications etc. (not altering text)**

**C4** S. 353(2) extended (3.3.1997) by S.I. 1997/227, **art. 3**

**354 Power to limit number of occupants of house.**

- (1) The local housing 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 352 (notice requiring execution of works to render house fit for number of occupants)—
  - (a) fix as a limit for the house what is in their opinion the highest number of individuals or households, or both, who should, having regard to the [F38 requirements set out in subsection (1A)] of that section, occupy the house in its existing condition, and
  - (b) give a direction applying that limit to the house.
- (2) The authority may also exercise the powers conferred by subsection (1) in relation to a part of a house; and the 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.
- (3) Not less than seven days before giving a direction under this section, the authority shall—
  - (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.
- (4) The authority shall within seven days from the giving of the 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.
- (5) A direction may be given notwithstanding the existence of a previous direction laying down a higher maximum for the same house or part of a house.
- (6) Where the local housing authority have in pursuance of section 352 served a notice specifying the number of individuals or households, or both, which in the opinion of the authority the house could reasonably accommodate if the works specified in the notice were carried out, the authority may adopt that number in fixing a limit under subsection (1) as respects the house.
- (7) The powers conferred by this section—
  - (a) are exercisable whether or not a notice has been given under section 352, and



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- (b) are without prejudice to the powers conferred by section 358 (overcrowding notices).

[<sup>F39</sup>(8) A direction under this section is a local land charge.]

#### Textual Amendments

- F38** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 52**
- F39** S. 354(8) inserted (3.3.1997) by 1996 c. 52, s. 74; S.I. 1997/350, **art. 2**

### 355 Effect of direction under s. 354.

- (1) Where a direction under section 354 is given (direction limiting number of occupants), it is the duty of—
- the occupier for the time being of the house, or part of a house, to which the direction relates, and
  - any other person who is for the time being entitled or authorised to permit individuals to take up residence in that house or part,
- not to permit [<sup>F40</sup>any individual to take up residence in that house or part unless the number of individuals or households then occupying the house or part would not exceed the limit specified in the direction.]
- (2) A person who knowingly fails to comply with the requirements imposed on him by subsection (1) commits a summary offence and is liable on conviction to a fine not exceeding [<sup>F41</sup>level 5] on the standard scale.

#### Textual Amendments

- F40** Words in s. 355(1) substituted (3.3.1997) by 1996 c. 52, s. 79(1); S.I. 1997/350, **art. 2**
- F41** Words in s. 355(2) substituted (3.3.1997) by 1996 c. 52, s. 78(2); S.I. 1997/350, **art. 2**

### 356 Power to require information about occupation of house.

- (1) The local housing authority may from time to time serve on the occupier of a house or part of a house in respect of which there is in force a direction under section 354 (direction limiting number of occupants) a notice requiring him to furnish them within seven days with a statement in writing giving all or any of the following particulars—
- 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;
  - the number of families or households to which those individuals belong;
  - the names of those individuals and of the heads of each of those families or households;
  - the rooms used by those individuals and families or households respectively.
- (2) An occupier who makes default in complying with the requirements of a notice under this section, or furnishes a statement which to his knowledge is false in a material particular, commits a summary offence and is liable on conviction to a fine not exceeding [<sup>F42</sup>level 3] on the standard scale.

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### Textual Amendments

**F42** Words in s. 356(2) substituted (3.3.1997) by 1996 c. 52, s. 78(3); S.I. 1997/350, art. 2

### 357 Revocation or variation of direction under s. 354.

- (1) The local housing authority may, on the application of a person having an estate or interest in a house in respect of which a direction is in force under section 354 (direction limiting number of occupants), having regard to any works which have been executed in the house or any other change of circumstances, revoke the direction or vary it so as to allow more people to be accommodated in the house.
- (2) If the authority refuse such an application or do not within 35 days from the making of such an application, or such further period as the applicant may in writing allow, notify the applicant of their decision, the applicant may appeal to the county court.
- (3) On an appeal the court may revoke the direction or vary it in any manner in which it might have been varied by the authority.

### *Overcrowding*

### 358 Service of overcrowding notice.

- (1) Where it appears to the local housing authority in the case of a house in multiple occupation—
  - (a) that an excessive number of persons is being accommodated on the premises, having regard to the rooms available, or
  - (b) that it is likely that an excessive number of persons will be accommodated on the premises, having regard to the rooms available.
 they may serve an overcrowding notice on the occupier of the premises or on the person managing the premises, or on both.
- (2) At least seven days before serving an overcrowding notice, the local housing authority shall—
  - (a) inform the occupier of the premises and any person appearing to them to be managing the premises, in writing, of their intention to do so, and
  - (b) ensure that, so far as is reasonably possible, every person living in the premises is informed of that intention;
 and they shall afford those persons an opportunity of making representations regarding their proposal to serve the notice.
- (3) If no appeal is brought under section 362, the overcrowding notice becomes operative at the end of the period of 21 days from the date of service, and is final and conclusive as to matters which could have been raised on such an appeal.
- (4) A person who contravenes an overcrowding notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

### 359 Contents of overcrowding notice.

- (1) An overcrowding notice shall state in relation to every room on the premises—

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- (a) what in the opinion of the local housing authority is the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time, or
- (b) that the room is in their opinion unsuitable to be occupied as sleeping accommodation;

and the notice may specify special maxima applicable where some or all of the persons occupying the room are under such age as may be specified in the notice.

- (2) An overcrowding notice shall contain either—
  - (a) the requirement set out in section 360 (not to permit excessive number of persons to sleep on premises), or
  - (b) the requirement set out in section 361 (not to admit new residents if number of persons is excessive);

and where the local housing authority have served on a person an overcrowding notice containing the latter requirement, they may at any time withdraw the notice and serve on him in its place an overcrowding notice containing the former requirement.

### **360 Requirement as to overcrowding generally.**

- (1) The first requirement referred to in section 359(2) is that the person on whom the notice is served must refrain from knowingly—
  - (a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice, or
  - (b) permitting persons to occupy the premises as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as husband and wife sleeping in the same room.
- (2) For the purposes of subsection (1)(b)—
  - (a) children under the age of 12 shall be left out of account, and
  - (b) it shall be assumed that the persons occupying the premises as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

### **361 Requirement as to new residents.**

- (1) The second requirement referred to in section 359(2) is that the person on whom the notice is served must refrain from knowingly—
  - (a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice, or
  - (b) permitting a new resident to occupy any part of the premises as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as husband and wife sleeping in the same room;and for this purpose “new resident” means a person who was not living in the premises immediately before the notice was served.
- (2) For the purposes of subsection (1)(b)—
  - (a) children under the age of 12 shall be left out of account, and
  - (b) it shall be assumed that the persons occupying any part of the premises as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

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### **362 Appeal against overcrowding notice.**

- (1) A person aggrieved by an overcrowding notice may, within 21 days after the date of service of the notice, appeal to the county court, which may make such order either confirming, quashing or varying the notice as it thinks fit.
- (2) If an appeal is brought the notice does not become operative until—
  - (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);
 and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

### **363 Revocation and variation of notice.**

- (1) The local housing authority may at any time, on the application of a person having an estate or interest in the premises—
  - (a) revoke an overcrowding notice, or
  - (b) vary it so as to allow more people to be accommodated on the premises.
- (2) If the authority refuse such an application, or do not within 35 days from the making of the application (or such further period as the applicant may in writing allow) notify the applicant of their decision, the applicant may appeal to the county court.
- (3) On an appeal the court may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.

### **364 Power to require information where notice in force.**

- (1) The local housing authority may from time to time serve on the occupier of premises in respect of which an overcrowding notice is in force a notice requiring him to furnish them within seven days with a statement in writing giving any of the following particulars—
  - (a) the number of individuals who are, on a date specified in the notice, occupying any part of the premises as sleeping accommodation;
  - (b) the number of families or households to which those individuals belong;
  - (c) the names of those individuals and of the heads of each of those families or households;
  - (d) the rooms used by those individuals and families or households respectively.
- (2) A person who—
  - (a) knowingly fails to comply with the requirements of such a notice, or
  - (b) furnishes a statement which he knows to be false in a material particular,
 commits a summary offence and is liable on conviction to a fine not exceeding [<sup>F43</sup>, in the case of such failure, level 3 on the standard scale and, in the case of furnishing such a statement, level 5 on the standard scale]

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#### Textual Amendments

**F43** Words in s. 364(2) substituted (3.3.1997) by 1996 c. 52, s. 78(4); S.I. 1997/350, art. 2

### 365 Means of escape from fire; general provisions as to exercise powers.

[<sup>F44</sup>(1) In any case where—

- (a) the local housing authority have the power to serve a notice under subsection (1) of section 352 in respect of a house in multiple occupation, and
- (b) the reason, or one of the reasons, by virtue of which that power arises is a failure to meet the requirement in paragraph (d) [<sup>F45</sup>or (e)] of subsection (1A) of that section,

the authority shall in addition have the power for that reason to accept an undertaking or make a closing order under section 368 in respect of the house.

(2) Where by virtue of subsection (1) the local housing authority have powers in respect of a house in multiple occupation to serve a notice under section 352(1) for the reason mentioned in subsection (1)(b) and to accept an undertaking or make a closing order under section 368, they may exercise such of those powers as appear to them appropriate; and where the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection, the authority shall be under a duty to so exercise those powers.

(2A) The local housing authority shall not serve a notice under section 352(1) for the reason mentioned in subsection (1)(b) or accept an undertaking or make a closing order under section 368 if the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection.]

[<sup>F46</sup>(3) The local housing authority shall consult with the fire authority concerned before exercising any of the powers mentioned in subsection (2)—

- (a) where they are under a duty to exercise those powers, or
- (b) where they are not under such a duty but may exercise those powers and the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection.]

(4) An order under subsection (2) [<sup>F47</sup>[<sup>F48</sup>, (2A) or (3)]]—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F49</sup>(5) Nothing in this section affects the power of the local housing authority to serve a notice under subsection (1) of section 352 if the house also fails to meet one or more of the requirements in paragraphs (a) to (c) [<sup>F50</sup>. . . of subsection (1A) of that section.]

#### Textual Amendments

**F44** S. 365(1)–(2A) substituted for S. 365(1)(2) by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), Sch. 9 Pt. III para. 53(1)

**F45** Words in s. 365(1)(b) inserted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 75(2); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

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- F46** S. 365(3) substituted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 75(3); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2
- F47** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 53(3)**
- F48** Words in s. 365(4) substituted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 75(4); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2
- F49** S.365(5) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 53(3)**
- F50** Words in s. 365(5) omitted (1.10.1996 for specified purposes otherwise 3.3.1997) by virtue of 1996 c. 52, s. 75(5); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2; and repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, art. 2

**366,** <sup>F51</sup> .....

**367.**

#### Textual Amendments

- F51** Ss. 366, 367 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 54, **Sch. 12 Pt. II**

### **368 Means of escape from fire: power to secure that part of house not used for human habitation.**

- (1) [<sup>F52</sup>Subject to section 365] if it appears to the local housing authority that the means of escape from fire would be adequate if part of the house were not used for human habitation, they may secure that that part is not so used.
- (2) For that purpose, the authority may, if after consultation with any owner or mortgagee they think fit to do so, accept an undertaking from him that that part will not be used for human habitation without the permission of the authority.
- (3) A person who, knowing that such an undertaking has been accepted—
  - (a) uses the part of the house to which the undertaking relates in contravention of the undertaking, or
  - (b) permits that part of the house to be so used,
 commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale; <sup>F53</sup> . . .
- (4) If the local housing authority do not accept an undertaking under subsection (2) with respect to a part of a house, or where they have accepted such an undertaking and that part of the house is at any time used in contravention of the undertaking, the authority may make a closing order with respect to that part of the house.
- (5) The provisions of Part IX apply to a closing order under subsection (4) as they apply to a closing order made under [<sup>F54</sup>section 264], but with [<sup>F55</sup>with the following modifications—
  - (a) the reference in section 278(1) (premises rendered fit) to the house in multiple occupation shall be construed as a reference to the part of the house in respect of which the closing order under subsection (4) is made;]
  - [<sup>F56</sup>(b)] the ground on which the authority are required to determine the order under section 278(1) (premises rendered fit) shall be that the authority are satisfied

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that the means of escape from fire with which the house is provided is adequate (owing to a change of circumstances) and will remain adequate if the part of the house with respect to which the order was made is again used for human habitation <sup>F57</sup> and

(c) section 279 (substitution of demolition orders) shall be omitted].

(6) Nothing in the Rent Acts <sup>F58</sup> or Part I of the Housing Act 1988] prevents possession being obtained of a part of a house which in accordance with an undertaking in pursuance of this section cannot for the time being be used for human habitation.

#### Textual Amendments

- F52** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 55\(1\)](#)
- F53** Words in s. 368(3) repealed (3.3.1997) by 1996 c. 52, ss. 78(5), 227, [Sch. 19 Pt. II](#); S.I. 1997/350, [art. 2](#); S.I. 1997/596, [art. 2](#)
- F54** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 55\(3\)\(a\)](#)
- F55** Words beginning “with the” and s. 368(5)(a) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 55\(3\)\(b\)](#)
- F56** “(b)” substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 55\(3\)\(b\)](#)
- F57** Word “and” and s. 368(5)(c) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 53\(3\)\(c\)](#)
- F58** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 50](#)

#### Modifications etc. (not altering text)

- C5** [S. 368\(5\)](#) modified by S.I. 1990/431, [art. 4](#), [Sch. 1 para. 23](#)

### *Standards of management*

#### **369 The management code.**

- (1) The Secretary of State may, with a view to providing a code for the management of houses in multiple occupation, by regulations make provision for ensuring that the person managing a house in multiple occupation observes proper standards of management.
- (2) <sup>F59</sup>Subject to subsection (2A)] the regulations may, in particular, require the person managing the house to ensure the repair, maintenance, cleansing and good order of—
- all means of water supply and drainage in the house,
  - <sup>F60</sup>all means of escape from fire and all apparatus, systems and other things provided by way of fire precautions;]
  - kitchens, bathrooms and water closets in common use,
  - sinks and wash-basins in common use,
  - common staircases, corridors and passage ways, and
  - outbuildings, yards and gardens in common use,
- and to make satisfactory arrangements for the disposal of refuse and litter from the house <sup>F61</sup>and to ensure that all means of escape from fire are kept clear of obstructions].

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- [<sup>F62</sup>(2A) The person managing the house shall only be liable by virtue of the regulations under subsection (2) to ensure the repair, maintenance, cleansing and good order of any premises outside the house if and to the extent that he has power or is otherwise liable to ensure those matters in respect of any such premises.]
- (3) The regulations may—
- (a) make different provision for different types of house;
  - (b) . . . . .<sup>F63</sup>
  - (c) impose duties on persons who have an estate or interest in a house or part of a house to which the regulations apply as to the giving of information to the local housing authority, . . .<sup>F64</sup>;
  - (d) impose duties on persons who live in the house for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;
  - (e) authorise the local housing authority to obtain information as to the number of individuals or households accommodated in the house;
  - (f) . . .<sup>F63</sup>
  - (g) contain such other incidental and supplementary provisions as may appear to the Secretary of State to be expedient.
- (4) Regulations under this section may vary or replace for the purposes of this section and of the regulations made under it the definition given in section 398 of the “person managing” a house.
- (5) A person who knowingly contravenes or without reasonable excuse fails to comply with a regulation under this section . . .<sup>F65</sup> commits a summary offence and is liable on conviction to a fine not exceeding [<sup>F66</sup>level 5] on the standard scale.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F59** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 56(1)**
- F60** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 56(1)**
- F61** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 56(1)**
- F62** S. 369(2A) inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 56(2)**
- F63** S. 369(3)(b)(f) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), **Sch. 9 Pt. III para. 56(3), Sch. 12 Pt. II**
- F64** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(b), 194(4), **Sch. 9 Pt. III para. 56(3), Sch. 12 Pt. II**
- F65** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), **Sch. 9 Pt. III para. 56(4), Sch. 12 Pt. II**
- F66** Words in s. 369(5) substituted (3.3.1997) by 1996 c. 52, **s. 78(6)**; S.I. 1997/350, **art. 2**

#### Modifications etc. (not altering text)

- C6** By [S.I. 1990/830, arts. 2\(1\), 3](#) it is provided that for the purposes of section 369 of the Housing Act 1985 the definition of “person managing” in section 398(6) of the Act shall be varied by the insertion



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of the words “; and for the purposes of the foregoing paragraphs, where rents or other payments are received by means of a payment made on behalf of any person, they shall be treated as rents or other payments received from that person.”

**370,** <sup>F67</sup> .....  
**371.**

#### Textual Amendments

**F67** Ss. 370, 371 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 57](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)

### **372 Power to require execution of works to remedy neglect of management.**

- (1) If in the opinion of the local housing authority the condition of a house . . . <sup>F68</sup> is defective in consequence of—
  - (a) neglect to comply with the requirements imposed by regulations under section 369 (regulations prescribing management code), . . . <sup>F69</sup>
  - (b) . . . . . <sup>F69</sup>the authority may serve on the person managing the house a notice specifying the works which, in the opinion of the authority, are required to make good the neglect.
- (2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice may be served by addressing it to him by the description of “manager of the House” (naming the house to which it relates) and delivering it to some person on the premises.
- (3) The notice shall require the person on whom it is served to execute the works specified in the notice <sup>F70</sup>as follows, namely,—
  - (a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and
  - (b) to complete those works within such reasonable period as is so specified.]
- (4) Where the authority serve a notice under this section on the person managing a house, they shall inform any other person who is to their knowledge an owner, lessee or mortgagee of the house of the fact that the notice has been served.
- (5) References in this section to the person managing a house have the same meaning as in section 369 (and accordingly are subject to amendment by regulations under that section).

#### Textual Amendments

**F68** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 58\(a\)](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)

**F69** Word “or” and s. 372(1)(b) repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 58\(b\)](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)

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**F70** Words beginning “as follows,” and s. 372(3)(a)(b) substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), [Sch 9 Pt. III para. 50\(b\)](#)

**373 Appeal against notice under s. 372.**

- (1) A person on whom a notice is served under section 372 (notice requiring works to remedy neglect of management), or any other person who is an owner, lessee or mortgagee of the house to which the notice relates, may, within 21 days from the service of the notice, or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (2) The appeal may be on any of the following grounds—
  - (a) that the condition of the house did not justify the local housing authority in requiring the execution of the works specified in the notice;
  - (b) that there has been some informality, defect or error in or in connection with, the notice;
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - [<sup>F71</sup>(cc) that the date specified for the beginning of the works is not reasonable]
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
  - (e) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from their execution and ought to pay the whole or a part of the expenses of executing them.
- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(b), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds on which an appeal is brought include the ground specified in subsection (2)(e), the appellant shall serve a copy of his notice of appeal on each other person referred to, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the works are executed by the local housing authority, to the authority.

**Textual Amendments**

**F71** [S. 373\(2\)\(cc\)](#) inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 59](#)

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**Modifications etc. (not altering text)**

**C7** [S. 373\(2\)](#) extended (3.3.1997) by [S.I. 1997/227](#), [art. 3](#)

**374** <sup>F72</sup>.....

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#### Textual Amendments

- F72** S. 374 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 60](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)

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

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

- (1) If a notice under section 352, . . . <sup>F73</sup> 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.

[<sup>F74</sup>(2) Compliance with a notice means beginning and completing the works specified in the notice—

- (a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;
- (b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and
- (c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date of withdrawal of the appeal and within such period (beginning on that twenty-first day) as is specified in the notice.

- (3) If, before the expiry of the period which under subsection (2) is appropriate for completion of the works specified in the notice, it appears to the local housing authority that reasonable progress is not being made towards compliance with the notice, the authority may themselves do the work required to be done by the notice.

(3A) Not less than seven days before a local housing authority enter any house for the purpose of doing any works by virtue of subsection (1) or subsection (3), they shall serve notice of their intention to do so on the person on whom the notice referred to in subsection (1) was served and, if they think fit, also on any other owner of the house.

(3B) If, after a local housing authority have served notice under subsection (3A), the works are in fact carried out (otherwise than by the authority), any administrative and other expenses incurred by the authority with a view to doing the work themselves in accordance with subsection (1) or subsection (3) shall be treated for the purposes of subsection (4) (and Schedule 10) as expenses incurred by them under this section in carrying out the works in a case where the notice referred to in subsection (1) has not been complied with.]

- (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.

#### Textual Amendments

- F73** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)
- F74** S. 375(2)(3)(3A)(3B) substituted for s. 375(2)(3) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 61](#)

*Status: Point in time view as at 03/03/1997.*

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### 376 Penalty for failure to execute works.

- (1) A person on whom a notice has been served under section 352, . . . <sup>F75</sup> or 372 (notices requiring the execution of works) who wilfully fails to comply with the notice commits a summary offence and is liable on conviction to a fine not exceeding [<sup>F76</sup>level 5] on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding [<sup>F77</sup>the expiry of the period which under section 375(2) is appropriate for completion of the works in question]; 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 [<sup>F76</sup>level 5] on the standard scale.
- (3) References in this section to compliance with a notice . . . <sup>F78</sup> shall be construed in accordance with section 375(2).
- (4) . . . <sup>F79</sup>
- (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.

#### Textual Amendments

- F75** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**
- F76** Words in s. 376(1)(2) substituted (3.3.1997) by 1996 c. 52, s. 78(7); S.I. 1997/350, art. 2
- F77** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 62**
- F78** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**
- F79** S. 376(4) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

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

- (1) Where—
  - (a) a person is required by a notice under section 352, . . . <sup>F80</sup> 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.

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- (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 [<sup>F81</sup>level 5 on the standard scale]

#### Textual Amendments

**F80** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**F81** Words in [s. 377\(3\)](#) substituted (3.3.1997) by [1996 c. 52, s. 78\(8\)](#); S.I. 1997/350, [art. 2](#)

#### [<sup>F82</sup>377A] Works notices: improvement of enforcement procedures.

- (1) The Secretary of State may by order provide that a local housing authority shall act as specified in the order before serving a works notice.

In this section a “works notice” means a notice under section 352 or 372 (notices requiring the execution of works).

- (2) An order under this section may provide that the authority—
- (a) shall as soon as practicable give to the person on whom the works notice is to be served a written notice which satisfies the requirements of subsection (3); and
  - (b) shall not serve the works notice until after the end of such period beginning with the giving of a notice which satisfies the requirements of subsection (3) as may be determined by or under the order.
- (3) A notice satisfies the requirements of this subsection if it—
- (a) states the works which in the authority’s opinion should be undertaken, and explains why and within what period;
  - (b) explains the grounds on which it appears to the authority that the works notice might be served;
  - (c) states the type of works notice which is to be served, the consequences of serving it and whether there is a right to make representations before, or a right of appeal against, the serving of it.
- (4) An order under this section may also provide that, before the authority serves the works notice on any person, they—
- (a) shall give to that person a written notice stating—
    - (i) that they are considering serving the works notice and the reasons why they are considering serving the notice; and
    - (ii) that the person may, within a period specified in the written notice, make written representations to them or, if the person so requests, make oral representations to them in the presence of a person determined by or under the order; and
  - (b) shall consider any representations which are duly made and not withdrawn.
- (5) An order under this section may in particular—
- (a) make provision as to the consequences of any failure to comply with a provision made by the order;
  - (b) contain such consequential, incidental, supplementary or transitional provisions and savings as the Secretary of State considers appropriate

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(including provisions modifying enactments relating to the periods within which proceedings must be brought).

- (6) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Nothing in any order under this section shall—
- (a) preclude a local housing authority from serving a works notice on any person, or from requiring any person to take immediate remedial action to avoid a works notice being served on him, in any case where it appears to them to be necessary to serve such a notice or impose such a requirement; or
  - (b) require such an authority to disclose any information the disclosure of which would be contrary to the public interest.]

#### Textual Amendments

**F82** S. 377A inserted (1.10.1996) by 1996 c. 52, s. 76; S.I. 1996/2402, art. 3

### 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 to be 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, . . . <sup>F83</sup> or 372, or
  - <sup>F84</sup>(b) to which regulations under section 369 (the management code) apply]
 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.

#### Textual Amendments

**F83** Figures repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), Sch. 12 Pt. II

**F84** S. 378(2)(b) substituted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(c), Sch. 9 Pt. III para. 64

### 379 Making of control order.

- (1) The local housing authority may make a control order in respect of a house in multiple occupation if—

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- (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) .....<sup>F85</sup> 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.

**Textual Amendments**

**F85** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 65](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)

**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,

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- (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 [<sup>F86</sup>and Part I of the Housing Act 1988].
- (4) On the coming into force of a control order any notice direction or order under section 352, 354, . . . <sup>F87</sup>, . . . <sup>F88</sup> 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.

#### Textual Amendments

**F86** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 51](#)

**F87** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**F88** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), [Sch. 9 Pt. II para. 57](#), [Sch. 12 Pt. II Note 2](#)

### 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—



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- (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 <sup>M2</sup>Rent Act 1977, and
  - (b) those sections as applied by Schedule 2 to the <sup>M3</sup>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.
- [<sup>F89</sup>(3A) Section 1(2) of and paragraph 12 of Part I of Schedule 1 to the Housing Act 1988 (which exclude local authority lettings from Part I 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, [<sup>F90</sup>or
  - (c) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988]
- nothing in this Part prevents the continuance of that tenancy or occupancy or affects the continued operation of [<sup>F91</sup>any 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.

#### Textual Amendments

**F89** S. 382(3A) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. I para. 52\(1\)](#)

**F90** Word “or” and s. 382(4)(c) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. I para. 52\(2\)](#)

**F91** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 170\(1\), Sch. 17 Pt. I para. 52\(2\)](#)

#### Marginal Citations

**M2** 1977 c. 42.

**M3** 1976 c. 80.

### 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

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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.
- (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.

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- (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.

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- (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 [<sup>F92</sup>level 5 on the standard scale]

#### Textual Amendments

**F92** Words in s. 387(5) substituted (3.3.1997) by 1996 c. 52, s. 78(9); S.I. 1997/350, art. 2

### 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 . . . <sup>F93</sup>;
  - (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.

#### Textual Amendments

**F93** Words repealed by S.I. 1990/434, reg. 2, Sch. para. 21

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### **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 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—

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- (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, . . . <sup>F94</sup> 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.

#### Textual Amendments

**F94** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

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

- (1) If the local housing authority—
- (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

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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.

*General supplementary provisions*

### **395 Powers of entry.**

- (1) Where it appears to the local housing authority that survey or examination of any premises is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises, a person authorised by the 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 the premises for the purpose of such a survey and examination.
- (2) A person authorised by the local housing authority may at any reasonable time, without any such prior notice as is mentioned in subsection (1), enter any premises for the purpose of ascertaining whether an offence has been committed under any of the following provisions of this Part—
- [<sup>F95</sup>section 348G] (contravention of or failure to comply with provision of registration scheme),
  - section 355(2) (failure to comply with requirements of direction limiting number of occupants of house),
  - section 358(4) (contravention of overcrowding notice),
  - section 368(3) (use or permitting use of part of house with inadequate means of escape from fire in contravention of undertaking),
  - section 369(5) (contravention of or failure to comply with regulations prescribing management code),
  - section 376(1) or (2) (failure to comply with notice requiring execution of works).
- (3) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised [<sup>F96</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### **Textual Amendments**

**F95** Words in s. 395(2) substituted (3.3.1997) by 1996 c. 52, s. 68(2) (with s. 70); S.I. 1997/350, art. 2

**F96** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), Sch. 9 Pt. III para. 67

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**[<sup>F97</sup>395A Codes of practice.**

- (1) The Secretary of State may by order—
  - (a) approve any code of practice (whether prepared by him or another person) which, in his opinion, gives suitable guidance to any person in relation to any matter arising under this Part;
  - (b) approve any modification of such a code; or
  - (c) withdraw such a code or modification.
- (2) The Secretary of State shall only approve a code of practice or a modification of a code if he is satisfied that—
  - (a) the code or modification has been published (whether by him or by another person) in such manner as he considers appropriate for the purpose of bringing the code or modification to the notice of those likely to be affected by it; or
  - (b) arrangements have been made for the code or modification to be so published.
- (3) The Secretary of State may approve—
  - (a) more than one code of practice in relation to the same matter;
  - (b) a code of practice which makes different provision with respect to different cases or descriptions of case (including different provision for different areas).
- (4) A failure to comply with a code of practice for the time being approved under this section shall not of itself render a person liable to any civil or criminal proceedings; but in any civil or criminal proceedings—
  - (a) any code of practice approved under this section shall be admissible in evidence, and
  - (b) any provision of any such code which appears to the court to be relevant to any question arising in the proceedings shall be taken into account in determining that question.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section references to a code of practice include references to a part of a code of practice.]

**Textual Amendments**

**F97** S. 395A inserted (1.10.1996) by 1996 c. 52, s. 77; S.I. 1996/2402, art. 3

**396 Penalty for obstruction.**

- (1) It is a summary offence [<sup>F98</sup>intentionally] 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 [<sup>F99</sup>level 4] on the standard scale.



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#### Textual Amendments

- F98** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 68\(1\)](#)
- F99** Words in [s. 396\(2\)](#) substituted (3.3.1997) by [1996 c. 52, s. 78\(10\)](#); [S.I. 1997/350, art. 2](#)

### **397 Warrant to authorise entry.**

- (1) Where it is shown to the satisfaction of a justice of the peace, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, the local housing authority—
  - (a) for the purpose of survey and examination to determine whether any powers under this Part should be exercised in respect of the premises, or
  - (b) for the purpose of ascertaining whether an offence has been committed under any of the provisions of this Part listed in section 395(2),the justice may by warrant under his hand authorise that person to enter on the premises for those purposes or for such of those purposes as may be specified in the warrant.
- (2) The justice shall not grant the warrant unless he is satisfied—
  - (a) that admission to the premises has been refused and, except where the purpose specified in the information is that mentioned in subsection (1)(b), that admission was sought after not less than 24 hours' notice of the intended entry had been given to the occupier, or
  - (b) that application for admission would defeat the purpose of the entry.
- (3) The power of entry conferred by the warrant includes power to enter by force, if need be, and may be exercised by the person on whom it is conferred either alone or together with other persons.
- (4) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of the warrant shall leave the premises as effectively secured against trespassers as he found them.
- (5) The warrant continues in force until the purpose for which the entry is required is satisfied.

### **398 Meaning of “lessee”, “owner”, “person, having control” and similar expressions.**

- (1) In this Part the expressions “lessee”, “owner” “person having an estate or interest”, “person having control”, and “person managing” shall be construed as follows.
- (2) “Lessee” includes a statutory tenant of the premises, and references to a lease or to a person to whom premises are let shall be construed accordingly.
- (3) “Owner”—
  - (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises 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 having an unexpired term exceeding three years.
- (4) “Person having an estate or interest” includes a statutory tenant of the premises.

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- (5) “Person having control” means the person who receives the rack-rent of the premises, whether on his own account or as agent or trustee of another person, or who would so receive it if the premises were let at a rack-rent (and for this purpose a “rack-rent” means a rent which is not less than 2/3rds of the full net annual value of the premises).
- [<sup>F100</sup>(6) “Person managing”—
- (a) means the person who, being an owner or lessee of the premises—
- (i) receives, directly or through an agent or trustee, rents or other payments from persons who are tenants of parts of the premises, or who are lodgers, or
- (ii) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments, and
- (b) includes, where those rents or other payments are received through another person as agent or trustee, that other person.]

#### Textual Amendments

**F100** S. 398(6) substituted (3.3.1997) by 1996 c. 52, s. 79(2); S.I. 1997/350, art. 2

#### Modifications etc. (not altering text)

**C8** S. 398 applied (17.12.1996) by 1996 c. 53, s. 82(1)(b); S.I. 1996/2842, art. 3 (with transitional, supplementary and saving provisions in arts. 5-8)

### 399 Minor definitions.

In this Part—

“dispossessed proprietor”, in relation to a house subject to a control order, means the person by whom the rent or other periodical payments to which the local housing authority become entitled on the coming into force of the order would have been receivable but for the making of the order, and the successors in title of that person;

“final determination”, in relation to an appeal, includes the withdrawal of the appeal, which has the same effect for the purposes of this Part as a decision dismissing the appeal;

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.

### 400 Index of defined expressions: Part XI.

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):—

appropriate multiplier	Schedule 13, paragraph 13
[ <sup>F101</sup> assured tenancy]	[ <sup>F101</sup> section 622]
[ <sup>F101</sup> assured agricultural occupancy]	[ <sup>F101</sup> section 622]

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control order	section 379(1)
control provisions	section 347(1)
dispossessed proprietor	section 399
district (of a local housing authority)	section 2(1)
district valuer	section 622
expenditure incurred (in respect of a house subject to a control order)	section 385(3) and Schedule 13, paragraph 2(3)
final determination (in relation to an appeal)	section 399
[ <sup>F102</sup> flat in multiple occupation]	[ <sup>F102</sup> section 354]
gross value	Schedule 13, paragraphs 8 to 12
house	section 399
house in multiple occupation	section 345
lessee (and “lease” and “let”)	sections 398 and 621
local housing authority	section 1, 2(2)
management code	section 369
management scheme	section 386
[ <sup>F103</sup> occupancy direction (in connection with special control provisions)]	<sup>F103</sup> section 348D]
overcrowding notice	section 358(1)
owner	section 398(3)
person having control	section 398(5)
person having an estate or interest	section 398(4)
person managing	sections 369(4), 372(5) and 398(6)
registration scheme	section 346
[ <sup>F104</sup> relevant management failure (for purposes of sections 348B to 348E)]	<sup>F104</sup> section 348F]
the Rent Acts	section 622
rents or other payments	Schedule 13, paragraph 2(2)
[ <sup>F105</sup> special control provisions]	<sup>F105</sup> section 348B]
standard scale (in reference to the maximum fine on summary conviction)	section 622
statutory tenant	section 622
surpluses on revenue account as settled by the scheme (in Schedule 13)	Schedule 13, paragraph 2(1)
tenant	section 621

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#### Textual Amendments

- F101** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 53**
- F102** Entry inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 69**
- F103** Entry in s. 400 inserted (3.3.1997) by [1996 c. 52, s. 67\(2\)](#) (with s. 70); S.I. 1997/350, **art. 2**
- F104** Entry in s. 400 inserted (3.3.1997) by [1996 c. 52, s. 67\(2\)](#) (with s. 70); S.I. 1997/350, **art. 2**
- F105** Entry in s. 400 inserted (3.3.1997) by [1996 c. 52, s. 67\(2\)](#) (with s. 70); S.I. 1997/350, **art. 2**

**Status:**

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**Changes to legislation:**

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