



# Housing Act 1985

## 1985 CHAPTER 68

### PART XI

#### HOUSES IN MULTIPLE OCCUPATION

##### *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>F1</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).

*Status: Point in time view as at 03/03/1997.*

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- (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>F2</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### Textual Amendments

- F1** 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
- F2** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), Sch. 9 Pt. III para. 67

#### [<sup>F3</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

- F3** S. 395A inserted (1.10.1996) by 1996 c. 52, s. 77; S.I. 1996/2402, art. 3

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### **396 Penalty for obstruction.**

- (1) It is a summary offence [<sup>F4</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>F5</sup>level 4] on the standard scale.

#### **Textual Amendments**

- F4** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 68\(1\)](#)
- F5** 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.

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(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.

(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>F6</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**

**F6** 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)**

**C1** 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.

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#### 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>F7</sup> assured tenancy]	[ <sup>F7</sup> section 622]
[ <sup>F7</sup> assured agricultural occupancy]	[ <sup>F7</sup> section 622]
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>F8</sup> flat in multiple occupation]	[ <sup>F8</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>F9</sup> occupancy direction (in connection with special control provisions)]	[ <sup>F9</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>F10</sup> relevant management failure (for purposes of sections 348B to 348E)]	[ <sup>F10</sup> section 348F]
the Rent Acts	section 622
rents or other payments	Schedule 13, paragraph 2(2)
[ <sup>F11</sup> special control provisions]	[ <sup>F11</sup> section 348B]

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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

#### Textual Amendments

- F7** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 53**
- F8** Entry inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 69**
- F9** Entry in s. 400 inserted (3.3.1997) by [1996 c. 52, s. 67\(2\)](#) (with s. 70); S.I. 1997/350, **art. 2**
- F10** Entry in s. 400 inserted (3.3.1997) by [1996 c. 52, s. 67\(2\)](#) (with s. 70); S.I. 1997/350, **art. 2**
- F11** 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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