

SCHEDULES

SCHEDULE 9

AMENDMENTS OF PARTS VI, IX, XI, XVII AND XVIII OF THE HOUSING ACT 1985

PART III

AMENDMENTS OF PART XI

- 44 At the end of section 345 (meaning of “multiple occupation”) there shall be added the following subsection—
- “(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.”
- 45 (1) In section 346 (registration schemes), in subsection (1), paragraph (b) and the word “and ” immediately preceding it shall be omitted.
- (2) In subsection (2) of that section the words “or building” shall be omitted and for the words “paragraphs (a) and (b)” there shall be substituted “paragraph (a)”.
- (3) In subsection (3) of that section the words “or building”, in each place where they occur, shall be omitted.
- (4) In subsection (6) of that section—
- (a) at the beginning there shall be inserted “Subject to section 347(4)”;
 - (b) for the words from “except in a case” to “level 2” there shall be substituted “level 3”; and
 - (c) at the end there shall be added the words “and, if the contravention or failure continues, he commits a further summary offence and is liable on conviction to a fine not exceeding one-tenth of the amount corresponding to that level for every day or part of a day during which the contravention or failure continues”.
- 46 In section 347 (control provisions), in subsection (4)—
- (a) for the words “A person” there shall be substituted “Where a person is”; and
 - (b) for the words from “is liable” to the end there shall be substituted “the said section 346(6) shall have effect as if for the words “level 3” there were substituted “level 4”.”
- 47 In section 349 (steps required to inform public about scheme), in subsection (2), in paragraph (b) the words “and buildings” shall be omitted.

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- 48 (1) In section 350 (power to require information for purposes of scheme), in subsection (1) the words “or building”, in each place where they occur, shall be omitted.
- (2) In subsection (2) of that section after the word “exceeding” there shall be inserted “(a)” and at the end there shall be added “in the case of such a failure; or
 (b) level 3 on the standard scale in the case of such a mis-statement”.
- 49 (1) In section 352 (power to require execution of works to render premises fit for number of occupants), in subsection (1) at the beginning there shall be inserted “Subject to section 365” and for the words from “the condition of a house” onwards there shall be substituted—

“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) In subsection (2) of that section, at the beginning there shall be inserted “Subject to subsection (2A)”, for the word “premises”, in both places where it occurs, there shall be substituted “house” and at the end of that subsection there shall be added—

“but the notice shall not specify any works to any premises outside the house”.

(3) After that subsection there shall be inserted the following subsection—

“(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.”

(4) In subsection (3) of that section for paragraph (b) there shall be substituted—

“(e) on the person managing the house;”; and in the words following that paragraph after the word “lessee” there shall be inserted “occupier”.

(5) After subsection (5) of that section there shall be inserted the following subsections—

“(5A) A notice served under this section is a local land charge.

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- (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) Subsection (6) of that section shall cease to have effect.
- 50 In each of the following provisions, that is to say—
- (a) section 352, in subsection (4) (effect of notice), and
 - (b) section 372 (power to require execution of works to remedy neglect of management), in subsection (3) (effect of notice),
- for the words from “within such period” onwards there shall be substituted the words “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.”
- 51 In section 353 (appeal against notice under section 352), in subsection (2)—
- (a) in paragraph (a) for the words “considerations set out in subsection (1)” there shall be substituted “requirements set out in subsection (1A)”; and
 - (b) after paragraph (d) there shall be inserted—
 - “(dd) that the date specified for the beginning of the works is not reasonable”.
- 52 In section 354 (power to limit number of occupants of house), in subsection (1), in paragraph (a) for the words “considerations set out in subsection (1)” there shall be substituted “requirements set out in subsection (1A)”.
- 53 (1) In section 365 (means of escape from fire: general provisions as to exercise of powers) for subsections (1) and (2) there shall be substituted the following subsections—
- “(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) 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

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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.”

(2) In subsection (3) of that section for “366” there shall be substituted “352 for the reason mentioned in subsection (1)(b)”.

(3) In subsection (4) of that section after “(2)” there shall be inserted “or (2A)” and at the end of that subsection there shall be inserted the following subsection—

“(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) and (e) of subsection (1A) of that section.”

54 Sections 366 and 367 (means of escape from fire: power by notice to require execution of works and appeals against notice) shall cease to have effect.

55 (1) In section 368 (means of escape from fire: power to secure that part of house not used for human habitation), in subsection (1) at the beginning there shall be inserted “Subject to section 365”.

(2) In subsection (3) of that section for “£5” there shall be substituted “one-tenth of the amount corresponding to that level”.

(3) In subsection (5) of that section—

(a) for the words from “section 265” to “unfit for human habitation)” there shall be substituted “section 264”;

(b) for the words “the modification that” there shall be substituted “with the following modifications—

(i) 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;

(b)”;
and

(c) at the end there shall be added “and

(i) section 279 (substitution of demolition orders) shall be omitted”.

56 (1) In section 369 (the management code for houses in multiple occupation) at the beginning of subsection (2) there shall be inserted “Subject to subsection (2A)” and after the words “all means of water supply and drainage in the house” there shall be inserted—

“all means of escape from fire and all apparatus, systems and other things provided by way of fire precautions;” and at the end of that subsection there shall be added

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the words “and to ensure that all means of escape from fire are kept clear of obstructions”.

(2) After subsection (2) of that section there shall be inserted the following subsection—

“(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) In subsection (3) of that section, paragraphs (b) and (f) and in paragraph (c) the words from “and in particular” onwards shall be omitted.

(4) In subsection (5) of that section the words “as applied under section 370 in relation to a house” shall be omitted.

57 Sections 370 and 371 (application of the management code to a house by order of the local housing authority and appeals relating to such orders) shall cease to have effect; and in section 381(4) of that Act “370” shall be omitted.

58 In section 372 (power of local housing authority to require execution of works to remedy neglect of management), in subsection (1)—

(a) the words from “to which” to “management code)” in the first place where they occur, and

(b) paragraph (b) and the word “or” immediately preceding it, shall be omitted.

59 In section 373 (appeal against notice under section 372), in subsection (2), after paragraph (c) there shall be inserted—

“(cc) that the date specified for the beginning of the works is not reasonable”.

60 Section 374 (application of code etc. to buildings other than houses) shall cease to have effect.

61 In section 375 (carrying out of works by local housing authority), for subsections (2) and (3) (compliance with notice and carrying out of works in default) there shall be substituted the following subsections—

“(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

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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.”

62 In section 376 (penalty for failure to execute works), in subsection (2) (further offence), for the words “that the period for compliance has expired” there shall be substituted “the expiry of the period which under section 375(2) is appropriate for completion of the works in question”.

63 In section 377 (powers of court to facilitate execution of works etc.), in subsection (3) for “£20” there shall be substituted “one-tenth of the amount corresponding to that level”.

64 In section 378 (provisions for protection of owners), in subsection (2) for paragraph (b) there shall be substituted—
“(e) to which regulations under section 369 (the management code) apply”.

65 In section 379 (making of control order), in subsection (1) paragraph (c) except for the final “or” shall be omitted.

66 In section 387 (right of entry for inspection and carrying out of works), in subsection (5) for “£20” there shall be substituted “one-tenth of the amount corresponding to that level”.

67 In section 395 (power of entry), at the end of subsection (3), there shall be added the words “and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf”.

68 (1) In section 396 (penalty for obstruction), in subsection (1) after the words “offence” there shall be inserted “intentionally”.

(2) In subsection (2) of that section for the words “level 2” there shall be substituted “level 3”.

69 In section 400 (index of defined expressions: Part XI), at the appropriate place in alphabetical order there shall be inserted the following entry—

“flat in multiple occupation	section 345”.
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70 (1) In Schedule 10 (recovery of expenses incurred by local housing authority), in paragraph 1 (introductory) for the words “in default of the person on whom the notice was served” there shall be substituted “in a case where the notice has not been complied with”.

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- (2) In paragraph 2 of that Schedule (recovery of expenses), in sub-paragraph (1)—
- (a) in paragraph (a) after the words “dwelling-house” there shall be inserted “house in multiple occupation”; and
 - (b) for paragraph (b) there shall be substituted—
 - “(b) where the works were required by a notice under section 352 or 372 (notices relating to houses in multiple occupation), from the person having control of the house or the person managing the house, as the authority think fit.”.
- (3) Paragraph 5 of that Schedule (order for payment by instalments) shall cease to have effect and in paragraph 6 (appeals) after sub-paragraph (1A) there shall be inserted the following sub-paragraph—
- “(1B) Where the demand for recovery of expenses relates to works carried out by virtue of subsection (3) of section 375, it shall be a ground of appeal that, at the time the local housing authority served notice under subsection (3A) of that section, reasonable progress was being made towards compliance with the notice in question.”
- (4) After paragraph 6 of that Schedule there shall be inserted the following paragraph—

“Expenses and interest recoverable from occupiers

- 6A (1) Where a demand becomes operative by virtue of paragraph 3(3) or 6(3), the local housing authority may serve notice on any person—
- (a) who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 3(1), and
 - (b) who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served, stating the amount of expenses recoverable by the authority and requiring all future payments of rent or sums in the nature of rent, whether already accrued due or not, by such tenant or licensee to be made direct to the authority until the expenses recoverable by the authority, together with interest accrued due, have been duly paid.
- (2) In the case of a demand which was served on any person as agent or trustee for another person (in this sub-paragraph referred to as “the principal or beneficiary”) sub-paragraph (1) shall have effect as if the reference in each of paragraphs (a) and (b) to the person on whom the demand was served were a reference to that person or the principal or beneficiary.
- (3) Subject to sub-paragraph (4), where a notice is served under sub-paragraph (1) then, unless the authority by further notice served on the tenant or licensee otherwise direct, it shall operate to transfer to the authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent.
- (4) The right of the authority to recover, receive and give a discharge for any rent or sums in the nature of rent by virtue of this paragraph shall be postponed to any right in respect of that rent or those sums which may

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at any time be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908.”

- 71 In Schedule 13 (further provision relating to control orders under Part XI of that Act) in sub-paragraph (4) of paragraph 21—
- (a) in paragraph (a) the word “366” shall be omitted;
 - (b) at the end of paragraph (a) there shall be inserted “or”;
 - (c) paragraph (c) and the word “or” immediately preceding it shall be omitted;
and
 - (e) in the words following paragraph (c) the words “or order” shall be omitted.