



# Housing Act 1996

## 1996 CHAPTER 52

### PART II

#### HOUSES IN MULTIPLE OCCUPATION

##### *Other amendments of Part XI of the Housing Act 1985*

#### **71 Restriction on notices requiring execution of works.**

- (1) In section 352 of the Housing Act 1985 (power to require execution of works to render premises fit for number of occupants), at end insert—

“(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).”

- (2) The above amendment does not apply in relation to a notice served under section 352 of the <sup>M1</sup>Housing Act 1985 before this section comes into force.

#### **Marginal Citations**

**M1** 1985 c. 68.

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## 72 Recovery of expenses of notice requiring execution of works.

(1) After section 352 of the Housing Act 1985 insert—

### “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).”
- (2) In section 353 of that Act (appeal against notice under section 352), after subsection (5) insert—
- “(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.”
- (3) The above amendments do not apply in relation to a notice served under section 352 of the <sup>M2</sup>Housing Act 1985 before this section comes into force.

#### Commencement Information

- II** S. 72 wholly in force 3.3.1997; s. 72 not in force at Royal Assent, see s. 232(1)-(3); s. 72 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#), and in force at 3.3.1997 so far as not already brought into force, by [S.I. 1997/350](#), [art. 2](#)

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### Marginal Citations

M2 1985 c. 68.

PROSPECTIVE

### F173 Duty to keep premises fit for number of occupants.

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### Textual Amendments

F1 Ss. 65-79 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with Sch.); [S.I. 2006/1535](#), art. 2(c) (with Sch.)

### 74 Section 354 direction to be local land charge.

In section 354 of the Housing Act 1985 (power to limit number of occupants of house), at the end insert—

“(8) A direction under this section is a local land charge.”.

### 75 Means of escape from fire.

(1) Section 365 of the Housing Act 1985 (means of escape from fire: general provisions as to exercise of powers) is amended as follows.

(2) In subsection (1)(b) (ground for exercise of additional powers) after “paragraph (d)” insert “ or (e) ”.

(3) For subsection (3) (consultation requirements) substitute—

“(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) In subsection (4) (orders) for “or (2A)” substitute “ , (2A) or (3) ”.

(5) In subsection (5) (other powers unaffected) omit “and (e)”.

### Commencement Information

I2 S. 75 wholly in force 3.3.1997; s. 75 not in force at Royal Assent, see s. 232(1)-(3); s. 75 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), art. 4, and in force at 3.3.1997 so far as not already brought into force, by [S.I. 1997/350](#), art. 2

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## 76 Works notices: improvement of enforcement procedures.

After section 377 of the <sup>M3</sup>Housing Act 1985 insert—

### “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 (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

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- (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.”.

#### Marginal Citations

M3 1985 c. 68.

## 77 Codes of practice.

After section 395 of the <sup>M4</sup>Housing Act 1985 insert—

### “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

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(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.”.

**Marginal Citations**

M4 1985 c. 68.

**78 Increase of fines, &c.**

(1) In section 350(2) of the <sup>M5</sup>Housing Act 1985 (information in relation to registration schemes)—

(a) in paragraph (a) (failure to give information) for “level 2” substitute “ level 3 ”, and

(b) in paragraph (b) (mis-statement) for “level 3” substitute “ level 5 ”.

(2) In section 355(2) of that Act (failure to comply with occupancy restrictions) for “level 4” substitute “ level 5 ”.

(3) In section 356(2) of that Act (information in relation to occupation of house) for “level 2” substitute “ level 3 ”.

(4) In section 364(2) of that Act (information in relation to overcrowding) for “level 2 on the standard scale” substitute “ , 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 ”.

(5) In section 368(3) of that Act (use of house in contravention of undertaking) omit from “and if” to the end.

(6) In section 369(5) of that Act (failure to comply with management code) for “level 3” substitute “ level 5 ”.

(7) In section 376(1) and (2) of that Act (penalties for failures to execute works) for “level 4” substitute in each case “ level 5 ”.

(8) In section 377(3) of that Act (failure to permit execution of works) for the words from “level 3” to the end substitute “ level 5 on the standard scale ”.

(9) In section 387(5) of that Act (failure to permit carrying out of works) for the words from “level 3” to the end substitute “ level 5 on the standard scale ”.

(10) In section 396(2) of that Act (penalty for obstruction) for the words “level 3” substitute “ level 4 ”.

**Marginal Citations**

M5 1985 c. 68.

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## 79 Minor amendments.

- (1) In section 355(1) of the <sup>M6</sup>Housing Act 1985 (effect of direction limiting number of occupants) for the words from “the number” to the end substitute “ 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) In section 398 of the Housing Act 1985 for subsection (6) (meaning of “person managing”) substitute—
  - “(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.”.
- (3) In Part IV of Schedule 13 to the Housing Act 1985 (control order followed by compulsory purchase order), in paragraph 22 (application of provisions where compulsory purchase order is made within 28 days of a control order), for “28 days” substitute “ eight weeks ”.

### Marginal Citations

M6 1985 c. 68.

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