



# Housing Act 2004

## 2004 CHAPTER 34

### PART 7

#### SUPPLEMENTARY AND FINAL PROVISIONS

##### *Residential property tribunals*

#### **229 Residential property tribunals**

- (1) Any jurisdiction conferred on a residential property tribunal by or under any enactment is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c. 42).
- (2) When so constituted for exercising any such jurisdiction a rent assessment committee is known as a residential property tribunal.
- (3) The appropriate national authority may by order make provision for and in connection with conferring on residential property tribunals, in relation to such matters as are specified in the order, such jurisdiction as is so specified.
- (4) An order under subsection (3) may modify an enactment (including this Act).
- (5) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### **Commencement Information**

- II** S. 229 wholly in force at 16.6.2006; s. 229 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 229 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); s. 229 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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## 230 Powers and procedure of residential property tribunals

- (1) A residential property tribunal exercising any jurisdiction by virtue of any enactment has, in addition to any specific powers exercisable by it in exercising that jurisdiction, the general power mentioned in subsection (2).
- (2) The tribunal's general power is a power by order to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue raised in or in connection with them.
- (3) In deciding whether to give directions under its general power a tribunal must have regard to—
  - (a) the matters falling to be determined in the proceedings,
  - (b) any other circumstances appearing to the tribunal to be relevant, and
  - (c) the provisions of the enactment by virtue of which it is exercising jurisdiction and of any other enactment appearing to it to be relevant.
- (4) A tribunal may give directions under its general power whether or not they were originally sought by a party to the proceedings.
- (5) When exercising jurisdiction under this Act, the directions which may be given by a tribunal under its general power include (where appropriate)—
  - (a) directions requiring a licence to be granted under Part 2 or 3 of this Act;
  - (b) directions requiring any licence so granted to contain such terms as are specified in the directions;
  - (c) directions requiring any order made under Part 4 of this Act to contain such terms as are so specified;
  - (d) directions that any building or part of a building so specified is to be treated as if an HMO declaration had been served in respect of it on such date as is so specified (without there being any right to appeal against it under section 255(9));
  - (e) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.
- (6) Nothing in any enactment conferring specific powers on a residential property tribunal is to be regarded as affecting the operation of the preceding provisions of this section.
- (7) Schedule 13 (residential property tribunals: procedure) has effect.
- (8) Section 229(5) applies also for the purposes of this section and Schedule 13.

### Commencement Information

- I2** S. 230 wholly in force at 16.6.2006; s. 230 not in force at Royal Assent see s. 270(4)(5); s. 230 in force for E. at 4.7.2005 by [S.I. 2005/1729](#), [art. 2\(a\)](#) (subject to [art. 3](#)); s. 230 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 231 Appeals from residential property tribunals

- (1) A party to proceedings before a residential property tribunal may appeal to the <sup>[F1</sup>Upper Tribunal] from a decision of the residential property tribunal.

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[<sup>F2</sup>(2) But the appeal may only be made with the permission of the residential property tribunal or the Upper Tribunal.]

(3) On the appeal—

- (a) the [<sup>F3</sup>Upper Tribunal] may exercise any power which was available to the residential property tribunal, and
- (b) a decision of the [<sup>F3</sup>Upper Tribunal] may be enforced in the same way as a decision of the residential property tribunal.

(4) Section 11(1) of the Tribunals and Inquiries Act 1992 (c. 53) (appeals from certain tribunals to High Court) does not apply to any decision of a residential property tribunal.

(5) <sup>F4</sup> .....

#### Textual Amendments

- F1** Words in s. 231(1) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 276(a)** (with Sch. 5)
- F2** S. 231(2) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 276(b)** (with Sch. 5)
- F3** Words in s. 231(3) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 276(a)** (with Sch. 5)
- F4** S. 231(5) omitted (1.6.2009) by virtue of [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 276(c)** (with Sch. 5)

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

- C1** S. 231 excluded by [Housing Act 1985 \(c. 68\)](#), Sch. 5 para. 11(5B) (as inserted (4.7.2005 (E.) and prosp. (W.)) by [Housing Act 2004 \(c. 34\)](#), **ss. 181(3)**, 270(4)(5)(c)); [S.I. 2005/1729](#), **art. 2(a)** (subject to art. 3)

#### Commencement Information

- I3** S. 231 wholly in force at 16.6.2006; s. 231 not in force at Royal Assent see s. 270(4)(5); s. 231 in force for E. at 4.7.2005 by [S.I. 2005/1729](#), **art. 2(a)** (subject to art. 3); s. 231 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

### *Register of licences and management orders*

## 232 Register of licences and management orders

- (1) Every local housing authority must establish and maintain a register of—
- (a) all licences granted by them under Part 2 or 3 which are in force;
  - (b) all temporary exemption notices served by them under section 62 or section 86 which are in force; and
  - (c) all management orders made by them under Chapter 1 or 2 of Part 4 which are in force.

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- (2) The register may, subject to any requirements that may be prescribed, be in such form as the authority consider appropriate.
- (3) Each entry in the register is to contain such particulars as may be prescribed.
- (4) The authority must ensure that the contents of the register are available at the authority's head office for inspection by members of the public at all reasonable times.
- (5) If requested by a person to do so and subject to payment of such reasonable fee (if any) as the authority may determine, a local housing authority must supply the person with a copy (certified to be true) of the register or of an extract from it.
- (6) A copy so certified is prima facie evidence of the matters mentioned in it.
- (7) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

#### Commencement Information

- I4** S. 232 wholly in force at 16.6.2006; s. 232 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 232 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 232 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

*Codes of practice and management regulations relating to HMOs etc.*

### **233 Approval of codes of practice with regard to the management of HMOs etc.**

- (1) The appropriate national authority may by order—
  - (a) approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of houses in multiple occupation or of excepted accommodation;
  - (b) approve a modification of such a code; or
  - (c) withdraw the authority's approval of such a code or modification.
- (2) Before approving a code of practice or a modification of a code of practice under this section the appropriate national authority must take reasonable steps to consult—
  - (a) persons involved in the management of houses in multiple occupation or (as the case may be) excepted accommodation of the kind in question and persons occupying such houses or accommodation, or
  - (b) persons whom the authority considers to represent the interests of those persons.
- (3) The appropriate national authority may only approve a code of practice or a modification of a code if satisfied that—
  - (a) the code or modification has been published (whether by the authority or by another person) in a manner that the authority considers appropriate for the purpose of bringing the code or modification to the attention of those likely to be affected by it; or
  - (b) arrangements have been made for the code or modification to be so published.

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- (4) The appropriate national authority may approve a code of practice which makes different provision in relation to different cases or descriptions of case (including different provision for different areas).
- (5) A failure to comply with a code of practice for the time being approved under this section does not of itself make a person liable to any civil or criminal proceedings.
- (6) In this section “excepted accommodation” means such description of living accommodation falling within any provision of Schedule 14 (buildings which are not HMOs for purposes of provisions other than Part 1) as is specified in an order under subsection (1).

### **234 Management regulations in respect of HMOs**

- (1) The appropriate national authority may by regulations make provision for the purpose of ensuring that, in respect of every house in multiple occupation of a description specified in the regulations—
  - (a) there are in place satisfactory management arrangements; and
  - (b) satisfactory standards of management are observed.
- (2) The regulations may, in particular—
  - (a) impose duties on the person managing a house in respect of the repair, maintenance, cleanliness and good order of the house and facilities and equipment in it;
  - (b) impose duties on persons occupying a house for the purpose of ensuring that the person managing the house can effectively carry out any duty imposed on him by the regulations.
- (3) A person commits an offence if he fails to comply with a regulation under this section.
- (4) In proceedings against a person for an offence under subsection (3) it is a defence that he had a reasonable excuse for not complying with the regulation.
- (5) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### *Information provisions*

### **235 Power to require documents to be produced**

- (1) A person authorised in writing by a local housing authority may exercise the power conferred by subsection (2) in relation to documents reasonably required by the authority—
  - (a) for any purpose connected with the exercise of any of the authority’s functions under any of Parts 1 to 4 in relation to any premises, or
  - (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.
- (2) A person so authorised may give a notice to a relevant person requiring him—
  - (a) to produce any documents which—
    - (i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and

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- (ii) are in his custody or under his control, and
- (b) to produce them at a time and place so specified and to a person so specified.
- (3) The notice must include information about the possible consequences of not complying with the notice.
- (4) The person to whom any document is produced in accordance with the notice may copy the document.
- (5) No person may be required under this section to produce any document which he would be entitled to refuse to provide in proceedings in the High Court on grounds of legal professional privilege.
- (6) In this section “document” includes information recorded otherwise than in legible form, and in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.
- (7) In this section “relevant person” means, in relation to any premises, a person within any of the following paragraphs—
  - (a) a person who is, or is proposed to be, the holder of a licence under Part 2 or 3 in respect of the premises, or a person on whom any obligation or restriction under such a licence is, or is proposed to be, imposed,
  - (b) a person who has an estate or interest in the premises,
  - (c) a person who is, or is proposing to be, managing or having control of the premises,
  - (d) a person who is, or is proposing to be, otherwise involved in the management of the premises,
  - (e) a person who occupies the premises.

#### Commencement Information

**I5** S. 235 wholly in force at 16.6.2006; s. 235 not in force at Royal Assent see s. 270(4)(5); s. 235 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 235 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 236 Enforcement of powers to obtain information

- (1) A person commits an offence if he fails to do anything required of him by a notice under section 235.
- (2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person commits an offence if he intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 235.
- (5) A person who commits an offence under subsection (4) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

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- (6) In this section “document” includes information recorded otherwise than in legible form, and in relation to information so recorded—
- (a) the reference to the production of a document is a reference to the production of a copy of the information in legible form, and
  - (b) the reference to suppressing a document includes a reference to destroying the means of reproducing the information.

#### Commencement Information

- 16** S. 236 wholly in force at 16.6.2006; s. 236 not in force at Royal Assent see s. 270(4)(5); s. 236 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 236 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 237 Use of information obtained for certain other statutory purposes

- (1) A local housing authority may use any information to which this section applies—
- (a) for any purpose connected with the exercise of any of the authority’s functions under any of Parts 1 to 4 in relation to any premises, or
  - (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.
- (2) This section applies to any information which has been obtained by the authority in the exercise of functions under—
- (a) section 134 of the Social Security Administration Act 1992 (c. 5) (housing benefit), or
  - (b) Part 1 of the Local Government Finance Act 1992 (c. 14) (council tax).

#### Commencement Information

- 17** S. 237 wholly in force at 25.11.2005; s. 237 not force at Royal Assent see s. 270(4)(5); s. 237 in force for E. at 15.6.2005 by S.I. 2005/1451, art. 3(e); s. 237 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(h)

### 238 False or misleading information

- (1) A person commits an offence if—
- (a) he supplies any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part,
  - (b) the information is false or misleading, and
  - (c) he knows that it is false or misleading or is reckless as to whether it is false or misleading.
- (2) A person commits an offence if—
- (a) he supplies any information to another person which is false or misleading,
  - (b) he knows that it is false or misleading or is reckless as to whether it is false or misleading, and
  - (c) he knows that the information is to be used for the purpose of supplying information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part.

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- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In this section “false or misleading” means false or misleading in any material respect.

#### **Commencement Information**

- I8** S. 238 wholly in force at 16.6.2006; s. 238 not in force at Royal Assent see s. 270(4)(5); s. 238 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 238 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### *Enforcement*

#### **239 Powers of entry**

- (1) Subsection (3) applies where the local housing authority consider that a survey or examination of any premises is necessary and any of the following conditions is met—
- (a) the authority consider that the survey or examination is necessary in order to carry out an inspection under section 4(1) or otherwise to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;
  - (b) the premises are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order;
  - (c) a management order is in force under Chapter 1 or 2 of Part 4 in respect of the premises.
- (2) Subsection (3) also applies where the proper officer of the local housing authority considers that a survey or examination of any premises is necessary in order to carry out an inspection under section 4(2).
- (3) Where this subsection applies—
- (a) a person authorised by the local housing authority (in a case within subsection (1)), or
  - (b) the proper officer (in a case within subsection (2)),
- may enter the premises in question at any reasonable time for the purpose of carrying out a survey or examination of the premises.
- (4) If—
- (a) an interim or final management order is in force under Chapter 1 of Part 4 in respect of any premises consisting of part of a house (“the relevant premises”), and
  - (b) another part of the house is excluded from the order by virtue of section 102(8) or 113(7),
- the power of entry conferred by subsection (3) is exercisable in relation to any premises comprised in that other part so far as is necessary for the purpose of carrying out a survey or examination of the relevant premises.
- (5) Before entering any premises in exercise of the power conferred by subsection (3), the authorised person or proper officer must have given at least 24 hours' notice of his intention to do so—



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- (a) to the owner of the premises (if known), and
  - (b) to the occupier (if any).
- (6) Subsection (7) applies where the local housing authority consider that any premises need to be entered for the purpose of ascertaining whether an offence has been committed under section 72, 95 or 234(3).
- (7) A person authorised by the local housing authority may enter the premises for that purpose—
- (a) at any reasonable time, but
  - (b) without giving any prior notice as mentioned in subsection (5).
- (8) A person exercising the power of entry conferred by subsection (3) or (7) may do such of the following as he thinks necessary for the purpose for which the power is being exercised—
- (a) take other persons with him;
  - (b) take equipment or materials with him;
  - (c) take measurements or photographs or make recordings;
  - (d) leave recording equipment on the premises for later collection;
  - (e) take samples of any articles or substances found on the premises.
- (9) An authorisation for the purposes of this section—
- (a) must be in writing; and
  - (b) must state the particular purpose or purposes for which the entry is authorised.
- (10) A person authorised for the purposes of this section must, if required to do so, produce his authorisation for inspection by the owner or any occupier of the premises or anyone acting on his behalf.
- (11) If the premises are unoccupied or the occupier is temporarily absent, a person exercising the power of entry conferred by subsection (3) or (7) must leave the premises as effectively secured against trespassers as he found them.
- (12) In this section “occupier”, in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

#### **Commencement Information**

**I9** S. 239 wholly in force at 16.6.2006; s. 239 not in force at Royal Assent see s. 270(4)(5); s. 239 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 239 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## **240 Warrant to authorise entry**

- (1) This section applies where a justice of the peace is satisfied, on a sworn information in writing, that admission to premises specified in the information is reasonably required for any of the purposes mentioned in subsection (2) by a person—
- (a) employed by, or
  - (b) acting on the instructions of,
- the local housing authority.
- (2) The purposes are—

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- (a) surveying or examining premises in order to carry out an inspection under section 4(1) or (2) or otherwise to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;
  - (b) surveying or examining premises—
    - (i) which are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order, or
    - (ii) in respect of which a management order is in force under Chapter 1 or 2 of Part 4;
  - (c) ascertaining whether an offence has been committed under section 72, 95 or 234(3).
- (3) The justice may by warrant under his hand authorise the person mentioned in subsection (1) to enter on the premises for such of those purposes as may be specified in the warrant.
- (4) But the justice must not grant the warrant unless he is satisfied—
- (a) that admission to the premises has been sought in accordance with section 239(5) or (7) but has been refused;
  - (b) that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the purpose of the entry to await his return; or
  - (c) that application for admission would defeat the purpose of the entry.
- (5) The power of entry conferred by a warrant under this section includes power to enter by force (if necessary).
- (6) Subsection (8) of section 239 applies to the person on whom that power is conferred as it applies to a person exercising the power of entry conferred by subsection (3) or (7) of that section.
- (7) A warrant under this section must, if so required, be produced for inspection by the owner or any occupier of the premises or anyone acting on his behalf.
- (8) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of a warrant under this section must leave the premises as effectively secured against trespassers as he found them.
- (9) A warrant under this section continues in force until the purpose for which the entry is required is satisfied.
- (10) In a case within section 239(4)(a) and (b), the powers conferred by this section are exercisable in relation to premises comprised in the excluded part of the house as well as in relation to the relevant premises.
- (11) In this section “occupier”, in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

#### Commencement Information

**I10** S. 240 wholly in force at 16.6.2006; s. 240 not in force at Royal Assent see s. 270(4)(5); s. 240 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 240 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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## 241 Penalty for obstruction

- (1) A person who obstructs a relevant person in the performance of anything which, by virtue of any of Parts 1 to 4 or this Part, that person is required or authorised to do commits an offence.
- (2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for obstructing the relevant person.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) In this section “relevant person” means an officer of a local housing authority or any person authorised to enter premises by virtue of any of Parts 1 to 4 or section 239 or 240.

### Commencement Information

- 111** S. 241 wholly in force at 16.6.2006; s. 241 not in force at Royal Assent see s. 270(4)(5); s. 241 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 241 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 242 Additional notice requirements for protection of owners

- (1) This section applies where an owner of premises gives a notice to the local housing authority for the purposes of this section informing them of his interest in the premises.
- (2) The authority must give him notice of any action taken by them under any of Parts 1 to 4 or this Part in relation to the premises.

### Commencement Information

- 112** S. 242 wholly in force at 16.6.2006; s. 242 not in force at Royal Assent see s. 270(4)(5); s. 242 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 242 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## *Authorisations*

## 243 Authorisations for enforcement purposes etc.

- (1) This section applies to any authorisation given for the purposes of any of the following provisions—
  - (a) section 131 (management orders: power of entry to carry out work),
  - (b) section 235 (power to require documents to be produced),
  - (c) section 239 (powers of entry),
  - (d) paragraph 3(4) of Schedule 3 (improvement notices: power to enter to carry out work), and
  - (e) paragraph 25 of Schedule 7 (EDMOs: power of entry to carry out work).
- (2) Any such authorisation must be given by the appropriate officer of the local housing authority.

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- (3) For the purposes of this section a person is an “appropriate officer” of a local housing authority, in relation to an authorisation given by the authority, if either—
- (a) he is a deputy chief officer of the authority (within the meaning of section 2 of the Local Government and Housing Act 1989 (c. 42)), and
  - (b) the duties of his post consist of or include duties relating to the exercise of the functions of the authority in connection with which the authorisation is given,
- or he is an officer of the authority to whom such a deputy chief officer reports directly, or is directly accountable, as respects duties so relating.

#### **Commencement Information**

**I13** S. 243 wholly in force at 16.6.2006; s. 243 not in force at Royal Assent see s. 270(2)(3); s. 243 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 243 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### *Documents*

#### **244 Power to prescribe forms**

- (1) The appropriate national authority may by regulations prescribe the form of any notice, statement or other document which is required or authorised to be used under, or for the purposes of, this Act.
- (2) The power conferred by this section is not exercisable where specific provision for prescribing the form of a document is made elsewhere in this Act.

#### **245 Power to dispense with notices**

- (1) The appropriate national authority may dispense with the service of a notice which is required to be served by a local housing authority under this Act if satisfied that it is reasonable to do so.
- (2) A dispensation may be given either before or after the time at which the notice is required to be served.
- (3) A dispensation may be given either unconditionally or on such conditions (whether as to the service of other notices or otherwise) as the appropriate national authority considers appropriate.
- (4) Before giving a dispensation under this section, the appropriate national authority shall, in particular, have regard to the need to ensure, so far as possible, that the interests of any person are not prejudiced by the dispensation.

#### **246 Service of documents**

- (1) Subsection (2) applies where the local housing authority is, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve a document on a person who, to the knowledge of the authority, is—
  - (a) a person having control of premises,
  - (b) a person managing premises, or
  - (c) a person having an estate or interest in premises,

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- or a person who (but for an interim or final management order under Chapter 1 of Part 4) would fall within paragraph (a) or (b).
- (2) The local housing authority must take reasonable steps to identify the person or persons falling within the description in that provision.
- (3) A person having an estate or interest in premises may for the purposes of any provision to which subsections (1) and (2) apply give notice to the local housing authority of his interest in the premises.
- (4) The local housing authority must enter a notice under subsection (3) in its records.
- (5) A document required or authorised by any of Parts 1 to 4 or this Part to be served on a person as—
- (a) a person having control of premises,
  - (b) a person managing premises,
  - (c) a person having an estate or interest in premises, or
  - (d) a person who (but for an interim or final management order under Chapter 1 of Part 4) would fall within paragraph (a) or (b),
- may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served in accordance with subsection (6).
- (6) A person having such a connection with any premises as is mentioned in subsection (5) (a) to (d) is served in accordance with this subsection if—
- (a) the document is addressed to him by describing his connection with the premises (naming them), and
  - (b) delivering the document to some person on the premises or, if there is no person on the premises to whom it can be delivered, by fixing it, or a copy of it, to some conspicuous part of the premises.
- (7) Subsection (1)(c) or (5)(c) applies whether the provision requiring or authorising service of the document refers in terms to a person having an estate or interest in premises or instead refers to a class of person having such an estate or interest (such as owners, lessees or mortgagees).
- (8) Where under any provision of Parts 1 to 4 or this Part a document is to be served on—
- (a) the person having control of premises,
  - (b) the person managing premises, or
  - (c) the owner of premises,
- and more than one person comes within the description in the provision, the document may be served on more than one of those persons.
- (9) Section 233 of the Local Government Act 1972 (c. 70) (service of notices by local authorities) applies in relation to the service of documents for any purposes of this Act by the authorities mentioned in section 261(2)(d) and (e) of this Act as if they were local authorities within the meaning of section 233.
- (10) In this section—
- (a) references to a person managing premises include references to a person authorised to permit persons to occupy premises; and
  - (b) references to serving include references to similar expressions (such as giving or sending).
- (11) In this section—

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“document” includes anything in writing;  
 “premises” means premises however defined.

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

**C2** S. 246 applied by Housing Act 1985 (c. 68), s. 268 (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 265(1), 270(4)(5)(f), **Sch. 15 para. 13**); S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

**247 Licences and other documents in electronic form**

- (1) A local housing authority may, subject to subsection (3), issue a licence to a person under Part 2 or 3 by transmitting the text of the licence to him by electronic means, provided the text—
  - (a) is received by him in legible form, and
  - (b) is capable of being used for subsequent reference.
- (2) A local housing authority may, subject to subsection (3), serve a relevant document on a person by transmitting the text of the document to him in the way mentioned in subsection (1).
- (3) The recipient, or the person on whose behalf the recipient receives the document, must have indicated to the local housing authority the recipient’s willingness to receive documents transmitted in the form and manner used.
- (4) An indication for the purposes of subsection (3)—
  - (a) must be given to the local housing authority in such manner as they may require;
  - (b) may be a general indication or one that is limited to documents of a particular description;
  - (c) must state the address to be used and must be accompanied by such other information as the local housing authority require for the making of the transmission; and
  - (d) may be modified or withdrawn at any time by a notice given to the local housing authority in such manner as they may require.
- (5) In this section any reference to serving includes a reference to similar expressions (such as giving or sending).
- (6) In this section—
 

“document” includes anything in writing; and

“relevant document” means any document which a local housing authority are, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve on any person.

**248 Timing and location of things done electronically**

- (1) The Secretary of State may by regulations make provision specifying, for the purposes of any of Parts 1 to 4 or this Part, the manner of determining—
  - (a) the times at which things done under any of Parts 1 to 4 or this Part by means of electronic communications networks are done;

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- (b) the places at which things done under any of Parts 1 to 4 or this Part by means of such networks are done; and
  - (c) the places at which things transmitted by means of such networks are received.
- (2) The Secretary of State may by regulations make provision about the manner of proving in any legal proceedings—
- (a) that something done by means of an electronic communications network satisfies any requirements of any of Parts 1 to 4 or this Part for the doing of that thing; and
  - (b) the matters mentioned in subsection (1)(a) to (c).
- (3) Regulations under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.
- (4) In this section “electronic communications network” has the meaning given by section 32 of the Communications Act 2003 (c. 21).

## **249 Proof of designations**

- (1) This subsection applies in respect of a copy of—
- (a) a designation under section 56 (designation of an area as subject to additional licensing), or
  - (b) a designation under section 80 (designation of an area as subject to selective licensing),
- which purports to be made by a local housing authority.
- (2) A certificate endorsed on such a copy and purporting to be signed by the proper officer of the authority stating the matters set out in subsection (3) 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.
- (3) Those matters are—
- (a) that the designation was made by the authority,
  - (b) that the copy is a true copy of the designation, and
  - (c) that the designation did not require confirmation by the confirming authority, or that on a specified date the designation was confirmed by the confirming authority.

### *Other supplementary provisions*

## **250 Orders and regulations**

- (1) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act—
- (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas; and
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State or (as the case may be) the National Assembly for Wales considers appropriate.

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- (3) The Secretary of State must consult the National Assembly for Wales before making any regulations under Part 5 which relate to residential properties in Wales.
- (4) Subject to subsections (5) and (6), any order or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to any order under section 270 or paragraph 3 of Schedule 10.
- (6) Subsection (4) also does not apply to—
  - (a) any order under section 55(3) which makes the provision authorised by section 55(4),
  - (b) any order under section 80(5) or (7),
  - (c) any order under section 216 or 229(3),
  - (d) any order under section 265(2) which modifies any provision of an Act,
  - (e) any regulations under section 254(6),
  - (f) any regulations under paragraph 3 of Schedule 4 or orders under paragraph 11 of Schedule 10, or
  - (g) any regulations made by virtue of paragraph 11(3)(b) or 12(3)(b) of Schedule 13;

and no such order or regulations may be made by the Secretary of State (whether alone or with other provisions) unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (7) In this Act “modify”, in the context of a power to modify an enactment by order or regulations, includes repeal (and “modifications” has a corresponding meaning).

## **251 Offences by bodies corporate**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in such a capacity,

he as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **252 Power to up-rate level of fines for certain offences**

- (1) Subsection (2) applies if the Secretary of State considers that there has been a change in the value of money since the relevant date.
- (2) The Secretary of State may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (3) such other sum or sums as he considers to be justified by the change.



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- (3) The provisions are—
- (a) section 32(2)(b);
  - (b) section 35(6);
  - (c) section 72(6); and
  - (d) section 95(5).
- (4) In subsection (1) “the relevant date” means—
- (a) the date of the passing of this Act; or
  - (b) where the sums specified in a provision mentioned in subsection (3) have been substituted by an order under subsection (2), the date of that order.
- (5) Nothing in an order under subsection (2) affects the punishment for an offence committed before the order comes into force.

### **253 Local inquiries**

The appropriate national authority may, for the purposes of the execution of any of the authority’s functions under this Act, cause such local inquiries to be held as the authority considers appropriate.

#### *Meaning of “house in multiple occupation”*

### **254 Meaning of “house in multiple occupation”**

- (1) For the purposes of this Act a building or a part of a building is a “house in multiple occupation” if—
- (a) it meets the conditions in subsection (2) (“the standard test”);
  - (b) it meets the conditions in subsection (3) (“the self-contained flat test”);
  - (c) it meets the conditions in subsection (4) (“the converted building test”);
  - (d) an HMO declaration is in force in respect of it under section 255; or
  - (e) it is a converted block of flats to which section 257 applies.
- (2) A building or a part of a building meets the standard test if—
- (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
  - (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
  - (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
  - (d) their occupation of the living accommodation constitutes the only use of that accommodation;
  - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
  - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
- (3) A part of a building meets the self-contained flat test if—
- (a) it consists of a self-contained flat; and

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- (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).
- (4) A building or a part of a building meets the converted building test if—
- (a) it is a converted building;
  - (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
  - (c) the living accommodation is occupied by persons who do not form a single household (see section 258);
  - (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
  - (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
  - (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.
- (5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.
- (6) The appropriate national authority may by regulations—
- (a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;
  - (b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;
  - (c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.
- (7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.
- (8) In this section—
- “basic amenities” means—
- (a) a toilet,
  - (b) personal washing facilities, or
  - (c) cooking facilities;
- “converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));
- “self-contained flat” means a separate set of premises (whether or not on the same floor)—
- (a) which forms part of a building;
  - (b) either the whole or a material part of which lies above or below some other part of the building; and
  - (c) in which all three basic amenities are available for the exclusive use of its occupants.

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#### Commencement Information

**II4** S. 254 wholly in force at 18.1.2005; s. 254 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## 255 HMO declarations

- (1) If a local housing authority are satisfied that subsection (2) applies to a building or part of a building in their area, they may serve a notice under this section (an “HMO declaration”) declaring the building or part to be a house in multiple occupation.
- (2) This subsection applies to a building or part of a building if the building or part meets any of the following tests (as it applies without the sole use condition)—
  - (a) the standard test (see section 254(2)),
  - (b) the self-contained flat test (see section 254(3)), or
  - (c) the converted building test (see section 254(4)),and the occupation, by persons who do not form a single household, of the living accommodation or flat referred to in the test in question constitutes a significant use of that accommodation or flat.
- (3) In subsection (2) “the sole use condition” means the condition contained in—
  - (a) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
  - (b) section 254(4)(e),as the case may be.
- (4) The notice must—
  - (a) state the date of the authority’s decision to serve the notice,
  - (b) be served on each relevant person within the period of seven days beginning with the date of that decision,
  - (c) state the day on which it will come into force if no appeal is made under subsection (9) against the authority’s decision, and
  - (d) set out the right to appeal against the decision under subsection (9) and the period within which an appeal may be made.
- (5) The day stated in the notice under subsection (4)(c) must be not less than 28 days after the date of the authority’s decision to serve the notice.
- (6) If no appeal is made under subsection (9) before the end of that period of 28 days, the notice comes into force on the day stated in the notice.
- (7) If such an appeal is made before the end of that period of 28 days, the notice does not come into force unless and until a decision is given on the appeal which confirms the notice and either—
  - (a) the period within which an appeal to the [<sup>F5</sup>Upper Tribunal] may be brought expires without such an appeal having been brought, or
  - (b) if an appeal to the [<sup>F5</sup>Upper Tribunal] is brought, a decision is given on the appeal which confirms the notice.
- (8) For the purposes of subsection (7), the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against.

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- (9) Any relevant person may appeal to a residential property tribunal against a decision of the local housing authority to serve an HMO declaration.

The appeal must be made within the period of 28 days beginning with the date of the authority's decision.

- (10) Such an appeal—
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (11) The tribunal may—
- (a) confirm or reverse the decision of the authority, and
  - (b) if it reverses the decision, revoke the HMO declaration.
- (12) In this section and section 256 “relevant person”, in relation to an HMO declaration, means any person who, to the knowledge of the local housing authority, is—
- (a) a person having an estate or interest in the building or part of the building concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
  - (b) a person managing or having control of that building or part (and not falling within paragraph (a)).

#### Textual Amendments

- F5** Words in s. 255(7)(a)(b) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 277](#) (with [Sch. 5](#))

## 256 Revocation of HMO declarations

- (1) A local housing authority may revoke an HMO declaration served under section 255 at any time if they consider that subsection (2) of that section no longer applies to the building or part of the building in respect of which the declaration was served.
- (2) The power to revoke an HMO declaration is exercisable by the authority either—
- (a) on an application made by a relevant person, or
  - (b) on the authority's own initiative.
- (3) If, on an application by such a person, the authority decide not to revoke the HMO declaration, they must without delay serve on him a notice informing him of—
- (a) the decision,
  - (b) the reasons for it and the date on which it was made,
  - (c) the right to appeal against it under subsection (4), and
  - (d) the period within which an appeal may be made under that subsection.
- (4) A person who applies to a local housing authority for the revocation of an HMO declaration under subsection (1) may appeal to a residential property tribunal against a decision of the authority to refuse to revoke the notice.

The appeal must be made within the period of 28 days beginning with the date specified under subsection (3) as the date on which the decision was made.

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- (5) Such an appeal—
  - (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (6) The tribunal may—
  - (a) confirm or reverse the decision of the authority, and
  - (b) if it reverses the decision, revoke the HMO declaration.

## **257 HMOs: certain converted blocks of flats**

- (1) For the purposes of this section a “converted block of flats” means a building or part of a building which—
  - (a) has been converted into, and
  - (b) consists of, self-contained flats.
- (2) This section applies to a converted block of flats if—
  - (a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and
  - (b) less than two-thirds of the self-contained flats are owner-occupied.
- (3) In subsection (2) “appropriate building standards” means—
  - (a) in the case of a converted block of flats—
    - (i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations 1991 (S.I. 1991/2768), and
    - (ii) which would not have been exempt under those Regulations, building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and
  - (b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).
- (4) For the purposes of subsection (2) a flat is “owner-occupied” if it is occupied—
  - (a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,
  - (b) by a person who has the freehold estate in the converted block of flats, or
  - (c) by a member of the household of a person within paragraph (a) or (b).
- (5) The fact that this section applies to a converted block of flats (with the result that it is a house in multiple occupation under section 254(1)(e)), does not affect the status of any flat in the block as a house in multiple occupation.
- (6) In this section “self-contained flat” has the same meaning as in section 254.

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## 258 HMOs: persons not forming a single household

- (1) This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.
- (2) Persons are to be regarded as not forming a single household unless—
  - (a) they are all members of the same family, or
  - (b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) For the purposes of subsection (2)(a) a person is a member of the same family as another person if—
  - (a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
  - (b) one of them is a relative of the other; or
  - (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
- (4) For those purposes—
  - (a) a “couple” means two persons who are married to each other or otherwise fall within subsection (3)(a);
  - (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
  - (c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
  - (d) the stepchild of a person shall be treated as his child.
- (5) Regulations under subsection (2)(b) may, in particular, secure that a group of persons are to be regarded as forming a single household only where (as the regulations may require) each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.
- (6) In subsection (5) “prescribed relationship” means any relationship of a description specified in the regulations.

### Commencement Information

**I15** S. 258 wholly in force at 18.1.2005; s. 258 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## 259 HMOs: persons treated as occupying premises as only or main residence

- (1) This section sets out when persons are to be treated for the purposes of section 254 as occupying a building or part of a building as their only or main residence.
- (2) A person is to be treated as so occupying a building or part of a building if it is occupied by the person—
  - (a) as the person’s residence for the purpose of undertaking a full-time course of further or higher education;
  - (b) as a refuge, or

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- (c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) In subsection (2)(b) “refuge” means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of—
- (a) physical violence or mental abuse, or
  - (b) threats of such violence or abuse,
- from persons to whom they are or were married or with whom they are or were co-habiting.

#### Commencement Information

**116** S. 259 wholly in force at 18.1.2005; s. 259 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

### 260 HMOs: presumption that sole use condition or significant use condition is met

- (1) Where a question arises in any proceedings as to whether either of the following is met in respect of a building or part of a building—
- (a) the sole use condition, or
  - (b) the significant use condition,
- it shall be presumed, for the purposes of the proceedings, that the condition is met unless the contrary is shown.
- (2) In this section—
- (a) “the sole use condition” means the condition contained in—
    - (i) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
    - (ii) section 254(4)(e),as the case may be; and
  - (b) “the significant use condition” means the condition contained in section 255(2) that the occupation of the living accommodation or flat referred to in that provision by persons who do not form a single household constitutes a significant use of that accommodation or flat.

#### *Other general interpretation provisions*

### 261 Meaning of “appropriate national authority”, “local housing authority” etc.

- (1) In this Act “the appropriate national authority” means—
- (a) in relation to England, the Secretary of State; and
  - (b) in relation to Wales, the National Assembly for Wales.
- (2) In this Act “local housing authority” means, in relation to England—
- (a) a unitary authority;
  - (b) a district council so far as it is not a unitary authority;
  - (c) a London borough council;

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- (d) the Common Council of the City of London (in its capacity as a local authority);
  - (e) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple (in his capacity as a local authority); and
  - (f) the Council of the Isles of Scilly.
- (3) In subsection (2) “unitary authority” means—
- (a) the council of a county so far as it is the council for an area for which there are no district councils;
  - (b) the council of any district comprised in an area for which there is no county council.
- (4) In this Act “local housing authority” means, in relation to Wales, a county council or a county borough council.
- (5) References in this Act to “the local housing authority”, in relation to land, are to the local housing authority in whose district the land is situated.
- (6) References in this Act to the district of a local housing authority are to the area of the council concerned, that is to say—
- (a) in the case of a unitary authority, the area or district;
  - (b) in the case of a district council so far as it is not a unitary authority, the district;
  - (c) in the case of an authority within subsection (2)(c) to (f), the London borough, the City of London, the Inner or Middle Temple or the Isles of Scilly (as the case may be); and
  - (d) in the case of a Welsh county council or a county borough council, the Welsh county or county borough.
- (7) Section 618 of the Housing Act 1985 (c. 68) (committees and members of Common Council of City of London) applies in relation to this Act as it applies in relation to that Act.

## **262 Meaning of “lease”, “tenancy”, “occupier” and “owner” etc.**

- (1) In this Act “lease” and “tenancy” have the same meaning.
- (2) Both expressions include—
- (a) a sub-lease or sub-tenancy; and
  - (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).
- And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to leases).
- (3) The expressions “lessor” and “lessee” and “landlord” and “tenant” and references to letting, to the grant of a lease or to covenants or terms, are to be construed accordingly.
- (4) In this Act “lessee” includes a statutory tenant of the premises; and references to a lease or to a person to whom premises are let are to be construed accordingly.
- (5) In this Act any reference to a person who is a tenant under a lease with an unexpired term of 3 years or less includes a statutory tenant as well as a tenant under a yearly or other periodic tenancy.
- (6) In this Act “occupier”, in relation to premises, means a person who—



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- (a) occupies the premises as a residence, and
  - (b) (subject to the context) so occupies them whether as a tenant or other person having an estate or interest in the premises or as a licensee;
- and related expressions are to be construed accordingly.

This subsection does not apply for the purposes of Part 5 and has effect subject to any other provision defining “occupier” for any purposes of this Act.

- (7) In this Act “owner”, in relation to premises—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple 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 of which the unexpired term exceeds 3 years.
- (8) In this Act “person having an estate or interest”, in relation to premises, includes a statutory tenant of the premises.
- (9) In this Act “licence”, in the context of a licence to occupy premises—
- (a) includes a licence which is not granted for a consideration, but
  - (b) excludes a licence granted as a temporary expedient to a person who entered the premises as a trespasser (whether or not, before the grant of the licence, another licence to occupy those or other premises had been granted to him);
- and related expressions are to be construed accordingly.

And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to licences).

## **263 Meaning of “person having control” and “person managing” etc.**

- (1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) 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.
- (2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.
- (3) In this Act “person managing” means, in relation to premises, the person who, being an owner or lessee of the premises—
- (a) receives (whether directly or through an agent or trustee) rents or other payments from—
    - (i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and
    - (ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or
  - (b) 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 includes, where those rents or other payments are received through another person as agent or trustee, that other person.

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- (4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a) (ii).
- (5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

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

- C3** S. 263 modified (E.) (1.10.2007) by The Houses in [Multiple Occupation \(Certain Blocks of Flats\) \(Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs\) \(England\) Regulations 2007 \(S.I. 2007/1904\)](#), **reg. 12(1)**
- C4** S. 263 modified (W.) (5.12.2007) by The Houses in [Multiple Occupation \(Certain Blocks of Flats\) \(Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs\) \(Wales\) Regulations 2007 \(S.I. 2007/3231\)](#), **reg. 12(1)**

**264 Calculation of numbers of persons**

- (1) The appropriate national authority may prescribe rules with respect to the calculation of numbers of persons for the purposes of—
  - (a) any provision made by or under this Act which is specified in the rules, or
  - (b) any order or licence made or granted under this Act of any description which is so specified.
- (2) The rules may provide—
  - (a) for persons under a particular age to be disregarded for the purposes of any such calculation;
  - (b) for persons under a particular age to be treated as constituting a fraction of a person for the purposes of any such calculation.
- (3) The rules may be prescribed by order or regulations.

*Final provisions*

**265 Minor and consequential amendments**

- (1) Schedule 15 (which contains minor and consequential amendments) has effect.
- (2) The Secretary of State may by order make such supplementary, incidental or consequential provision as he considers appropriate—
  - (a) for the general purposes, or any particular purpose, of this Act; or
  - (b) in consequence of any provision made by or under this Act or for giving full effect to it.
- (3) An order under subsection (2) may modify any enactment (including this Act).  
“Enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (4) The power conferred by subsection (2) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly.

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(5) Nothing in this Act affects the generality of the power conferred by this section.

#### Commencement Information

**I17** S. 265 partly in force; s. 265(2)-(5) in force at Royal Assent see s. 270(2)(a); s. 265(1) in force for W. for certain purposes at 14.7.2005 by S.I. 2005/1814, art. 2(d); s. 265(1) in force for E. for certain purposes at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 265(1) in force for W. for certain purposes at 16.6.2006 by S.I. 2006/1535, art. 2(b) (with art. 3, Sch.); s. 265(1) in force for E. for certain purposes at 2.1.2007 by S.I. 2006/3191, art. 2(c); s. 265(1) in force for W. for certain purposes at 13.12.2007 by S.I. 2007/3232, art. 2(c)

## 266 Repeals

Schedule 16 (which contains repeals) has effect.

#### Commencement Information

**I18** S. 266 partly in force; s. 266 not in force at Royal Assent see s. 270(4)(5); s. 266 in force for E. for certain purposes at 6.4.2006 by S.I. 2006/1060, art. 2(1)(e) (with Sch.); s. 266 in force for W. for certain purposes at 16.6.2006 by S.I. 2006/1535, art. 2(c) (with Sch.); s. 266 in force for E. for certain purposes at 6.4.2007 by S.I. 2007/1068, art. 2(b)

## 267 Devolution: Wales

In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) references to the following Acts are to be treated as references to those Acts as amended by virtue of this Act—

- (a) the Housing Act 1985 (c. 68);
- (b) the Housing Act 1988 (c. 50);
- (c) the Housing Act 1996 (c. 52).

## 268 The Isles of Scilly

- (1) This Secretary of State may by order provide that, in its application to the Isles of Scilly, this Act is have effect with such modifications as are specified in the order.
- (2) Where a similar power is exercisable under another Act in relation to provisions of that Act which are amended by this Act, the power is exercisable in relation to those provisions as so amended.

## 269 Expenses

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State by virtue of this Act;
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

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## **270 Short title, commencement and extent**

- (1) This Act may be cited as the Housing Act 2004.
- (2) The following provisions come into force on the day on which this Act is passed—
  - (a) sections 2, 9, 161 to 164, 176, 190, 208, 216, 233, 234, 244, 248, 250, 252, 264, 265(2) to (5), 267 to 269 and this section, and
  - (b) any other provision of this Act so far as it confers any power to make an order or regulations which is exercisable by the Secretary of State or the National Assembly for Wales.

Subsections (3) to (7) have effect subject to paragraph (b).

- (3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - (a) sections 180, 182 to 189, 195 to 207, 209 to 211, 217, 218, 219, 222, 224, 245 to 247, 249, 251 and 253 to 263,
  - (b) Schedule 9,
  - (c) Schedule 11, except paragraphs 15 and 16, and
  - (d) Schedule 14.
- (4) The provisions listed in subsection (5) come into force—
  - (a) where they are to come into force in relation only to Wales, on such day as the National Assembly for Wales may by order appoint, and
  - (b) otherwise, on such day as the Secretary of State may by order appoint.
- (5) The provisions referred to in subsection (4) are—
  - (a) Part 1 (other than sections 2 and 9),
  - (b) Parts 2 to 4,
  - (c) sections 179, 181, 191 to 194, 212 to 215, 220, 221, 223, 225, 226, 227, 229 to 232, 235 to 243, 265(1) and 266,
  - (d) Schedule 10,
  - (e) paragraphs 15 and 16 of Schedule 11, and
  - (f) Schedules 13, 15 and 16.
- (6) Part 5 (other than sections 161 to 164 and 176) comes into force on such day as the Secretary of State may by order appoint.
- (7) Section 228 and Schedule 12 come into force on such day as the National Assembly for Wales may by order appoint.
- (8) Different days may be appointed for different purposes or different areas under subsection (4), (6) or (7).
- (9) The Secretary of State may by order make such provision as he considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.
- (10) The power conferred by subsection (9) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly
- (11) Subject to subsections (12) and (13), this Act extends to England and Wales only.

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- (12) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates, except that any amendment or repeal in—  
the Mobile Homes Act 1983 (c. 34), or  
the Crime and Disorder Act 1998 (c. 37),  
extends to England and Wales only.
- (13) This section extends to the whole of the United Kingdom.

#### **Subordinate Legislation Made**

- P1** S. 270(4)(5) power partly exercised: 17.2.2005 appointed for specified provisions by {S.I. 2005/326}, art. 2;  
S. 270(4)(5) power partly exercised: 27.4.2005 appointed for specified provisions by {S.I. 2005/1120}, art. 2;  
S. 270(4)(5) power partly exercised: 6.6.2005 and 15.6.2005 appointed for specified provisions by {S.I. 2005/1451}, arts. 2, 3;  
S. 270(4)(5) power partly exercised: 4.7.2005 appointed for specified provisions by {S.I. 2005/1729}, art. 2 (with art. 3);  
S. 270(4)(5) power partly exercised: 14.7.2005 appointed for specified provisions by {S.I. 2005/1814}, art. 2;  
S. 270(4)(5) power partly exercised: 25.11.2005 appointed for specified provisions by {S.I. 2005/3237}, art. 2;  
S. 270(4)(5) power partly exercised: 6.4.2006 and 6.7.2006 appointed for specified provisions by {S.I. 2006/1060}, art. 2 (with art. 3, Sch.);  
S. 270(4)(5) power partly exercised: 16.6.2006 appointed for specified provisions by {S.I. 2006/1535}, art. 2 (with art. 3, Sch.);  
S. 270(4)(5) power partly exercised: 2.1.2007 appointed for specified provisions and purposes by {S.I. 2006/3191}, art. 2;  
S. 270(4)(5) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/305}, art. 2;  
S. 270(4)(5) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/1068}, art. 2;  
S. 270(4)(5) power partly exercised: 13.12.2007 appointed for specified provisions by {S.I. 2007/3232}, art. 2
- P2** S. 270(6) power partly exercised: 1.8.2007 appointed for specified provisions and purposes by {S.I. 2007/1668}, arts. 2-4;  
S. 270(6) power partly exercised: 10.9.2007 appointed for specified provisions and purposes by {S.I. 2007/2471}, arts. 2-4;  
S. 270(6) power partly exercised: 14.12.2007 appointed for specified provisions and purposes by {S.I. 2007/3308}, arts. 2-4;  
S. 270(6) power fully exercised: 6.8.2008 appointed for specified provisions by {S.I. 2008/898}, art. 2
- P3** S. 270(7) power fully exercised: 14.7.2005 appointed for specified provisions by {S.I. 2005/1814}, art. 2

**Status:**

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