



# Housing Act 2004

## 2004 CHAPTER 34

### PART 7

#### SUPPLEMENTARY AND FINAL PROVISIONS

##### *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—

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- (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—
- (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.

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### Commencement Information

- II** 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—
- (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.

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- (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

- I2** 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.](#))

### 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

- I3** 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

- I4** 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.](#))

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)