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Housing Act 2004

2004 CHAPTER 34

PART 7

SUPPLEMENTARY AND FINAL PROVISIONS

Other general interpretation provisions

VALID FROM 18/01/2005

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;
 - (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.

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- (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.

VALID FROM 18/01/2005

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—
 - (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.

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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).

VALID FROM 18/01/2005

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)

- C1** 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)**
- C2** 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.

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