



Housing Act 2004

2004 CHAPTER 34

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

CHAPTER 3

OVERCROWDING NOTICES

139 Service of overcrowding notices

- (1) This Chapter applies to any HMO—
 - (a) in relation to which no interim or final management order is in force; and
 - (b) which is not required to be licensed under Part 2.
- (2) The local housing authority may serve an overcrowding notice on one or more relevant persons if, having regard to the rooms available, it considers that an excessive number of persons is being, or is likely to be, accommodated in the HMO concerned.
- (3) The authority must, at least 7 days before serving an overcrowding notice—
 - (a) inform in writing every relevant person (whether or not the person on whom the authority is to serve the notice) of their intention to serve the notice; and
 - (b) ensure that, so far as is reasonably possible, every occupier of the HMO concerned is informed of the authority's intention.
- (4) The authority must also give the persons informed under subsection (3) an opportunity of making representations about the proposal to serve an overcrowding notice.
- (5) An overcrowding notice becomes operative, if no appeal is brought under section 143, at the end of the period of 21 days from the date of service of the notice.
- (6) If no appeal is brought under section 143, an overcrowding notice is final and conclusive as to matters which could have been raised on such an appeal.

Changes to legislation: Housing Act 2004, Section 139 is up to date with all changes known to be in force on or before 10 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (7) A person who contravenes an overcrowding notice commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In proceedings for an offence under subsection (7) it is a defence that the person had a reasonable excuse for contravening the notice.
- (9) In this section “relevant person” means a person who is, to the knowledge of the local housing authority—
- (a) a person having an estate or interest in the HMO concerned, or
 - (b) a person managing or having control of it.
- [^{F1}(10) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
- (11) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.]

Textual Amendments

- F1** S. 139(10)(11) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 9 para. 5**; [S.I. 2017/281](#), reg. 4(f)

Modifications etc. (not altering text)

- C1** S. 139 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 11}
- C2** S. 139 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. 11**

Commencement Information

- I1** S. 139 wholly in force at 16.6.2006; s. 139 not in force at Royal Assent see s. 270(4)(5); s. 139 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with [Sch.](#)); s. 139 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 :

- s. 139(7) words omitted by [2016 c. 22 s. 127\(2\)](#)

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\(3\)](#)