

Housing (Overcrowding) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Mr Andrew Love MP, are published separately as Bill 46-EN.

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Make provision relating to household overcrowding standards and for the housing needs of those living in overcrowded housing accommodation.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Definition of overcrowding

For section 324 (Definition of overcrowding) of the Housing Act 1985 (in this Act referred to as “the 1985 Act”) there is substituted—

“324 Definition of overcrowding

A dwelling is overcrowded for the purposes of this Part when the number of persons sleeping in the dwelling is such as to contravene—

- (a) the standard specified in section 325 (“the bedroom standard”),
or
- (b) the standard specified in section 326 (“the space standard”).”

2 The bedroom standard

For section 325 (The room standard) of the 1985 Act there is substituted—

“325 The bedroom standard

- (1) The bedroom standard is contravened when the number of bedrooms available to the occupiers of a dwelling is less than the number of bedrooms allocated to them in aggregate in accordance with the formula set out below in subsection 4. 15
- (2) No account shall be taken for the purposes of the bedroom standard of a room having a floor area of less than 50 square feet.
- (3) A room is available as a bedroom if it is of a type normally used in the locality as a bedroom. 20

- (4) For the purposes of the bedroom standard a separate bedroom shall be allocated to the following persons –
- (a) a person living together with another as husband and wife (whether that other person is of the same sex or the opposite sex) 5
 - (b) a person aged 21 years or more
 - (c) two persons of the same sex aged 10 years to 20 years
 - (d) two persons (whether of the same sex or not) aged less than 10 years
 - (e) two persons of the same sex where one person is aged between 10 years and 20 years and the other is aged less than 10 years 10
 - (f) any person aged under 21 years in any case where he or she cannot be paired with another occupier of the dwelling so as to fall within (c), (d) or (e) above.”.

3 The space standard 15

For section 326 (The space standard) of the 1985 Act there is substituted –

“326 The space standard

- (1) The space standard is contravened when the number of persons sleeping in a dwelling is in excess of the permitted number, having regard to the floor area of the rooms of the dwelling available as bedrooms. 20
- (2) For this purpose –
- (a) a child under the age of five shall be reckoned as half a unit and a person aged five or over shall be reckoned as one unit, and
 - (b) a room is available as a bedroom if it is of a type normally used in the locality as a bedroom. 25
- (3) The permitted number of persons in relation to a dwelling is the aggregate for all such rooms in the dwelling of the numbers specified in column 2 of the Table set out below in relation to each room of the floor area specified in column 1; but no account shall be taken for the purposes of the space standard of a room having a floor area of less than 50 square feet. 30

<i>Floor area of room</i>	<i>Number of persons</i>	
110 sq. ft. or more	2	35
90 sq. ft. or more but less than 110 sq. ft.	1.5	
70 sq. ft. or more but less than 90 sq. ft.	1	40

<i>Floor area of room</i>	<i>Number of persons</i>	
50 sq. ft. or more but less than 70 sq. ft.	0.5	5

- (4) The Secretary of State may by regulations prescribe the manner in which the floor area of a room is to be ascertained for the purposes of this section; and the regulations may provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a specified height not exceeding eight feet. 10
- (5) Regulations under subsection (4) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A certificate of the local housing authority stating the number and floor areas of the rooms in a dwelling, and that the floor areas have been ascertained in the prescribed manner, is *prima facie* evidence for the purposes of legal proceedings of the facts stated in it. 15

4 Powers and duties of local housing authority and Secretary of State

For section 334 (Duty to inspect, report and prepare proposals) of the 1985 Act there is substituted – 20

“334 Duty to inspect, report and prepare proposals

- (1) A local housing authority (“the authority”) may from time to time cause an inspection to be made of their district or part of it to establish the numbers of overcrowded dwellings and may thereafter prepare a report which shall show the result of the inspection and the number of dwellings required in order to abate the overcrowding. 25
- (2) In any case where the authority prepare a report on overcrowding they shall submit the form to the Secretary of State who shall be required to take the report into account in the disbursement of funds to the authority for the provision of accommodation or related purposes (whether the disbursement of funds is by way of grant, subsidy or otherwise). 30
- (3) The authority shall exercise their power to cause an inspection to be made and to prepare a report so as to ensure that the first report for their district is published within the period of 12 months beginning with the day on which this section comes into force, whether the report on overcrowding appears as part of the authority’s housing strategy under Part 7 of the Local Government Act 2003 or otherwise. 35
- (4) The authority shall exercise their power so as to ensure that a new inspection is made and a new report is published within the period of five years beginning with the day on which their last report was published.”. 40

5 Exception to responsibility of occupier

- (1) Subsection (2) (a) of section 327 (Penalty for occupier causing or permitting overcrowding) of the 1985 Act is amended as follows, by substituting or the words “children attaining the age of 10” there is substituted “the birth of children or children attaining the age of five”. 5
- (2) Section 328 (Exception: children attaining age 1 or 10) of the 1985 Act is amended as follows –
- (a) In subsection (1) for the words “a child obtaining the age of one or ten” there is substituted “the birth of a child to an occupier of the dwelling or a child attaining the age of five”. 10
- (b) In subsection (2) for the words “attained that age” there is substituted “was born or attained the age of five”.
- (c) In subsection (3)(a) for the words “attains that age” there is substituted “was born or attained the age of five”. 15

6 Financial provision

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

7 Commencement, transitional provision and general saving

- (1) The provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint: and different days may be appointed for different purposes. 20
- (2) The Secretary of State may by order made by statutory instrument make such transitional provisions and savings as he considers appropriate in connection with the coming into force of any provision of this Act. 25
- (3) The powers conferred by subsections (1) and (2) are exercisable as respects Wales by the National Assembly for Wales.

8 Short title, extent and application to the Isles of Scilly

- (1) This Act may be cited as the Housing (Overcrowding) Act 2003.
- (2) This Act extends to England and Wales only. 30
- (3) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct; and the power to make such an order shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.