

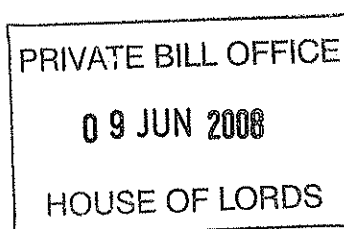
IN PARLIAMENT

LONDON LOCAL AUTHORITIES BILL (HL)

SESSION 2007-2008

HOUSE OF LORDS

REPORT
OF
SECRETARY OF STATE
COMMUNITIES AND LOCAL GOVERNMENT
ON
THE LONDON LOCAL AUTHORITIES BILL (HL)



The Secretary of State has the following comments on the Bill.

Part 4: Houses in Multiple Occupation: Management Notices

The Secretary of State opposes Part 4 of the Bill because she believes that further legislation is not necessary. The Housing Act 2004 already provides local authorities with powers to require landlords to take remedial action in cases where the management of HMOs falls below required standards. She would not support a legislative change that would result in the powers relating to the fitness of HMO stock differing between London and the rest of England.

Under Part 1 of the 2004 Act, which established the Housing Health and Safety Rating System (HHSRS), a local authority can require hazards, according to their severity to the health and safety of occupiers, to be remedied by requiring a landlord or manager to carry out works under an Improvement Notice. A hazard that represents a breach of the HMO management regulations, established under Part 7 of the 2004 Act, can therefore be dealt with under HHSRS. Failure to comply with an improvement notice under Part 1, and a breach of the HMO management regulations under Part 7, are both criminal offences. Part 4 of the Bill is therefore not required.

Part 5: Housing: Powers of Entry, etc

Clause 21 Housing Act 2004: Powers of Entry

The Secretary of State opposes Part 5, clause 21 of the Bill because she believes that further legislation is not necessary.

Section 239 of the Housing Act 2004 provides a local housing authority with power to enter any premises in order to carry out its functions under parts 1 to 4 of that Act. Usually, 24 hours notice must be given to the owner of premises (if known) and to the occupiers of a property (if any) prior to inspection. However, a local housing authority may enter any premises without giving

prior notice for the purpose of ascertaining whether an offence has been committed in relation to licensing, or in respect of the any of the duties imposed on managers or occupiers of HMOs by management regulations. Section 40 of the Housing Act 2004 gives a local housing authority power to take emergency action if they are satisfied that a category 1 hazard exists on any residential premises if the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises and if no management order is in force in relation to the premises. In particular the local authority has the right of entry at any time, and the requirements for the giving of notices are adapted to enable action to be taken quickly.

Clause 21(2) seeks to require the notice to be given only to the occupier or, if there is no occupier, only then would it be given to the owner of the premises, if known. We consider that where premises are occupied by a person other than the owner, and the whereabouts of the owner (who has ultimate responsibility for the management of the premises) is known, that both the occupier and owner should be given notice of the proposed action by the local housing authority. In particular we would be concerned to ensure that the interference of property rights would be proportionate and in compliance with the European Convention on Human Rights (ECHR). Also, the amendment would result in the powers of entry provisions differing between London and the rest of England, with no justification.

The amendment proposed at clause 21(4) would not be acceptable as it presumes that the owner of the premises would not be informed about the actions of the local housing authority in respect of his premises. Furthermore, while it is of course desirable for the local housing authority to exercise its functions by consent, it has the power already to enter premises without complying with the usual notice periods in the emergency situations described above.

The Secretary of State recognises that in certain circumstances a delay in entering premises could impact upon the health and safety of occupiers. Further guidance, not legislation, is therefore required. The Department is currently working with the Local Authorities Co-ordinators of Regulatory Services (LACORs) in developing the guidance.

Clause 22 Housing Act 2004: Authorisation for Enforcement Purposes, etc

The Secretary of State opposes the amendment to section 243 of the Housing Act 2004. The wording of the 2004 Act has been carefully drafted to ensure compliance with the European Convention on Human Rights in terms of intrusion into someone's property or home. In particular it ensures the independence of the person authorising the entry. The 2004 Act specifically requires a deputy chief officer to provide authorisation. Allowing a person who reports directly to the deputy chief officer to provide authorisation potentially reduces this independence to the extent that it may not be compatible with the European Convention on Human Rights. The proposed amendments would

also result in different enforcement powers being available between London and the rest of England, which cannot be justified.

The Secretary of State does, however, recognise that further guidance is needed, and the Department is therefore working with the Local Authorities Co-ordinators of Regulatory Services (LACORs) in developing this.

Signed by

The Rt Hon Caroline Flint MP
Minister for Housing
Communities and Local Government