

SCHEDULES

SCHEDULE 15

Section 130.

REPAIR NOTICES: AMENDMENTS OF HOUSING ACT 1985, PART VI

- 1 (1) In section 189 (repair notice in respect of unfit house), in subsection (1)—
 - (a) at the beginning there shall be inserted the words “Subject to subsection (1A)”; and
 - (b) for the word “house”, in each place where it occurs, there shall be substituted “dwelling-house”.
- (2) At the end of subsection (1) of that section there shall be inserted the following subsection—

“(1A) Where the local housing authority are satisfied that a dwelling-house which is a flat is unfit for human habitation by reason of the defective condition of a part of the building outside the flat, they shall serve a repair notice on the person having control of that part of the building, unless they are satisfied that the works which would be required to that part are such that the flat is not capable of being rendered so fit at reasonable expense.”
- (3) In subsection (2) of that section—
 - (a) in paragraph (a) for the words from “within such reasonable time” onwards there shall be substituted the words “and to begin those works not later than such reasonable date, being not earlier than the seventh day after the notice becomes operative, as is specified in the notice and to complete those works within such reasonable time as is so specified, and”; and
 - (b) in paragraph (b) for the word “house” there shall be substituted “dwelling-house”.
- (4) In subsection (3) of that section for the words “the house”, in each place where they occur, there shall be substituted “the dwelling-house or part of the building concerned”, for the word “may” there shall be substituted “shall” and for the words “lessee or otherwise” there shall be substituted “or lessee”.
- (5) At the end of that section there shall be added the following subsection—

“(5) A repair notice under this section which has become operative is a local land charge.”
- 2 (1) In section 190 (repair notice in respect of house in state of disrepair, but not unfit), in subsection (1),—
 - (a) for the word “house”, in each place where it occurs, there shall be substituted “dwelling-house”;
 - (b) in paragraph (b), after the word “satisfied” there shall be inserted “whether” and after the word “tenant”, in the first place where it occurs, there shall be inserted “or otherwise”.

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- (2) At the end of subsection (1) of that section there shall be inserted the following subsection—
- “(1A) Where the local housing authority—
- (a) are satisfied that a building containing a flat is in such a state of disrepair that, although the flat is not unfit for human habitation, substantial repairs are necessary to a part of the building outside the flat to bring the flat up to a reasonable standard, having regard to its age, character and locality, or
- (b) are satisfied, whether on a representation made by an occupying tenant or otherwise, that a building containing a flat is in such a state of disrepair that, although the flat is not unfit for human habitation, the condition of a part of the building outside the flat is such as to interfere materially with the personal comfort of the occupying tenant,
- they may serve a repair notice on the person having control of the part of the building concerned.”
- (3) In subsection (2) of that section for the words from “within such reasonable time” onwards there shall be substituted “to execute the works specified in the notice, not being works of internal decorative repair, and—
- (a) to begin those works not later than such reasonable date, being not earlier than the seventh day after the notice becomes operative, as is specified in the notice; and
- (b) to complete those works within such reasonable time as is so specified.”
- (4) In subsection (3) of that section for the words “the house”, in each place where they occur, there shall be substituted “the dwelling-house or part of the building concerned”, for the word “may” there shall be substituted “shall” and for the words “lessee or otherwise” there shall be substituted “or lessee”.
- (5) At the end of that section there shall be added the following subsection—
- “(5) A repair notice under this section which has become operative is a local land charge.”
- 3 (1) In section 191 (appeals against repair notices), after subsection (1) there shall be inserted the following subsection—
- “(1A) Without prejudice to the generality of subsection (1), it shall be a ground of appeal that some person other than the appellant, being a person who is an owner in relation to the dwelling-house or part of the building concerned, ought to execute the works or pay the whole or part of the cost of executing them.”
- (2) In subsection (3) of that section for the words “the house” there shall be substituted “the dwelling-house”.
- (3) After subsection (3) of that section there shall be inserted the following subsections—
- “(3A) Where the grounds on which an appeal is brought are or include that specified in subsection (1A), the appellant shall serve a copy of his notice of appeal on each other person referred to; and on the hearing of the appeal the court may—

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- (a) vary the repair notice so as to require the works to be executed by any such other person; or
 - (b) make such order as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the works are executed by the local housing authority, to the authority.
- (3B) In the exercise of its powers under subsection (3A), the court shall take into account, as between the appellant and any such other person as is referred to in that subsection,—
 - (a) their relative interests in the dwelling-house or part of the building concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
 - (b) their relative responsibility for the state of the dwelling-house or building which gives rise to the need for the execution of the works; and
 - (c) the relative degree of benefit to be derived from the execution of the works.
- (3C) If, by virtue of the exercise of the court’s powers under subsection (3A), a person other than the appellant is required to execute the works specified in a repair notice, then, so long as that other person continues to be an owner in relation to the premises to which the notice relates, he shall be regarded as the person having control of those premises for the purposes of the following provisions of this Part.”
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 - (1) In section 192 (power to purchase houses found on appeal to be unfit etc.), in subsections (1) and (2) for the words “the house”, in each place where they occur, there shall be substituted “the dwelling-house”.
 - (2) In subsection (3) of that section for the words “the house” there shall be substituted “the dwelling-house or part of the building in question”.
 - (3) In subsection (4) of that section for the words “the house” there shall be substituted “the dwelling-house”.
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 - (1) In section 193 (power of local housing authority to execute works) for subsection (2) there shall be substituted the following subsections—
 - “(2) For the purpose of this Part compliance with the notice means beginning and completing the works specified in the notice,—
 - (a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;
 - (b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and
 - (c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date on which the notice becomes operative and within such period (beginning on that twenty-first day) as is specified in the notice.
 - (2A) If, before the expiry of the period which under subsection (2) is appropriate for completion of the works specified in the notice, it appears to the local housing authority that reasonable progress is not being made towards

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compliance with the notice, the authority may themselves do the work required to be done by the notice.”

- (2) At the end of that section there shall be added the following subsection—
- “(4) If, after the local housing authority have given notice under section 194 of their intention to enter and do any works, the works are in fact carried out by the person having control of the dwelling-house or part of the building in question, any administrative and other expenses incurred by the authority with a view to doing the works themselves shall be treated for the purposes of Schedule 10 as expenses incurred by them under this section in carrying out works in default of the person on whom the repair notice was served.”
- 6 (1) In section 194 (notice of authority’s intention to execute works), in subsection (1)—
- (a) for the words “a house” there shall be substituted “any premises”;
- (b) for the word “may” there shall be substituted “shall”; and
- (c) for the words “the house”, in each place where they occur, there shall be substituted “the premises”.
- (2) In subsection (2) of that section for the words “the house”, in each place where they occur, there shall be substituted “the premises”.
- 7 In section 198 (penalty for obstruction), in subsection (2) for the words “level 2” there shall be substituted “level 3”.
- 8 After section 198 there shall be inserted the following section—
- “198A Penalty for failure to execute works**
- (1) A person having control of premises to which a repair notice relates who intentionally fails to comply with the notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.
- (3) Section 193(2) shall have effect to determine whether a person has failed to comply with a notice and what is the period for completion of any works.
- (4) The provisions of this section are without prejudice to the exercise by the local housing authority of the powers conferred by the preceding provisions of this Part.”
- 9 Sections 199 to 201 (recovery by lessee of proportion of works and provisions as to charging orders) shall cease to have effect.
- 10 In section 203 (saving for rights arising from breach of covenant, etc.), in subsection (3) for the words “a house” there shall be substituted “any premises”.
- 11 In section 205 (application of provisions to parts of buildings and temporary or movable structures) paragraph (a) shall be omitted and for the word “house” there shall be substituted “dwelling-house”.
- 12 (1) In section 207 (definitions)—
- (a) for the definition beginning “house” there shall be substituted—

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- ““dwelling-house” and “flat” shall be construed in accordance with subsection (2) and “the building”, in relation to a flat, means the building containing the flat”;
- (b) in the definition of “person having control” for the words “in relation to premises” there shall be substituted “subject to section 191(3A),—
- (a) in relation to a dwelling-house”;
- (c) at the end of that definition there shall be added “and
- (b) in relation to a part of a building to which relates a repair notice served under subsection (1A) of section 189 or section 190, means a person who is an owner in relation to that part of the building (or the building as a whole) and who, in the opinion of the authority by whom the notice is served, ought to execute the works specified in the notice”; and
- (d) after the definition of “person having control” there shall be inserted—
- ““premises” includes a dwelling-house or part of a building and, in relation to any premises, any reference to a person having control shall be construed accordingly”.
- (2) At the end of that section there shall be inserted the following subsection—
- “(2) For the purposes of this Part a “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.”
- 13 (1) In Schedule 10 (recovery of expenses incurred by local housing authority), in paragraph 2, in sub-paragraph (1) for the words following “authority” there shall be substituted—
- “(a) where the works were required by a notice under section 189 or section 190 (repair notices), from the person having control of the dwelling-house or part of the building to which the notice relates; and
- (b) in any other case, from the person on whom the notice was served;
- and in the following provisions of this paragraph the person from whom expenses are recoverable by virtue of this sub-paragraph is referred to as “the person primarily liable”.
- (2) In sub-paragraphs (2) and (3) of paragraph 2 of that Schedule for the words “on whom the notice was served”, in each place where they occur, there shall be substituted “primarily liable”.
- (3) In paragraph 6 of that Schedule (appeals) after sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) Where the demand for recovery of expenses relates to works carried out by virtue of section 193(2A), it shall be a ground of appeal that, at the time the local housing authority gave notice under section 194 of their intention to enter and do the works, reasonable progress was being made towards compliance with the repair notice.”