



# Housing Act 2004

## 2004 CHAPTER 34

### PART 1

#### HOUSING CONDITIONS

#### CHAPTER 1

##### ENFORCEMENT OF HOUSING STANDARDS: GENERAL

##### *New system for assessing housing conditions*

### **1 New system for assessing housing conditions and enforcing housing standards**

- (1) This Part provides—
  - (a) for a new system of assessing the condition of residential premises, and
  - (b) for that system to be used in the enforcement of housing standards in relation to such premises.
- (2) The new system—
  - (a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and
  - (b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).
- (3) The kinds of enforcement action which are to involve the use of the new system are—
  - (a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),
  - (b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and
  - (c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).

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- (4) In this Part “residential premises” means—
- (a) a dwelling;
  - (b) an HMO;
  - (c) unoccupied HMO accommodation;
  - (d) any common parts of a building containing one or more flats.
- (5) In this Part—
- “building containing one or more flats” does not include an HMO;
- “common parts”, in relation to a building containing one or more flats, includes—
- (a) the structure and exterior of the building, and
  - (b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;
- “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;
- “external common parts”, in relation to a building containing one or more flats, means common parts of the building which are outside it;
- “flat” means a separate set of premises (whether or not on the same floor)—
- (a) which forms part of a building,
  - (b) which is constructed or adapted for use for the purposes of a dwelling, and
  - (c) either the whole or a material part of which lies above or below some other part of the building;
- “HMO” means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);
- “unoccupied HMO accommodation” means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.
- (6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).
- (7) The following indicates how this Part applies to flats—
- (a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and
  - (b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).
- (8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

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#### Commencement Information

- II** S. 1 wholly in force at 16.6.2006; s. 1 not in force at Royal Assent see s. 270(4)(5); s. 1 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 1 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 2 Meaning of “category 1 hazard” and “category 2 hazard”

(1) In this Act—

“category 1 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

“category 2 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and

“hazard” means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)—

“prescribed” means prescribed by regulations made by the appropriate national authority (see section 261(1)); and

“prescribed band” means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section—

“building” includes part of a building;

“harm” includes temporary harm.

(5) In this Act “health” includes mental health.

### *Procedure for assessing housing conditions*

## 3 Local housing authorities to review housing conditions in their districts

(1) A local housing authority must keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under any of the provisions mentioned in subsection (2).

(2) The provisions are—

- (a) the following provisions of this Act—

(i) this Part,

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- (ii) Part 2 (licensing of HMOs),
  - (iii) Part 3 (selective licensing of other houses), and
  - (iv) Chapters 1 and 2 of Part 4 (management orders);
  - (b) Part 9 of the Housing Act 1985 (c. 68) (demolition orders and slum clearance);
  - (c) Part 7 of the Local Government and Housing Act 1989 (c. 42) (renewal areas); and
  - (d) article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860).
- (3) For the purpose of carrying out their duty under subsection (1) a local housing authority and their officers must—
- (a) comply with any directions that may be given by the appropriate national authority, and
  - (b) keep such records, and supply the appropriate national authority with such information, as that authority may specify.

#### Commencement Information

- I2** [S. 3](#) wholly in force at 16.6.2006; [s. 3](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 3](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 3](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

#### 4 Inspections by local housing authorities to see whether category 1 or 2 hazards exist

- (1) If a local housing authority consider—
- (a) as a result of any matters of which they have become aware in carrying out their duty under section 3, or
  - (b) for any other reason,
- that it would be appropriate for any residential premises in their district to be inspected with a view to determining whether any category 1 or 2 hazard exists on those premises, the authority must arrange for such an inspection to be carried out.
- (2) If an official complaint about the condition of any residential premises in the district of a local housing authority is made to the proper officer of the authority, and the circumstances complained of indicate—
- (a) that any category 1 or category 2 hazard may exist on those premises, or
  - (b) that an area in the district should be dealt with as a clearance area,
- the proper officer must inspect the premises or area.
- (3) In this section “an official complaint” means a complaint in writing made by—
- (a) a justice of the peace having jurisdiction in any part of the district, or
  - (b) the parish or community council for a parish or community within the district.
- (4) An inspection of any premises under subsection (1) or (2)—
- (a) is to be carried out in accordance with regulations made by the appropriate national authority; and
  - (b) is to extend to so much of the premises as the local housing authority or proper officer (as the case may be) consider appropriate in the circumstances having regard to any applicable provisions of the regulations.

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- (5) Regulations under subsection (4) may in particular make provision about—
  - (a) the manner in which, and the extent to which, premises are to be inspected under subsection (1) or (2), and
  - (b) the manner in which the assessment of hazards is to be carried out.
- (6) Where an inspection under subsection (2) has been carried out and the proper officer of a local housing authority is of the opinion—
  - (a) that a category 1 or 2 hazard exists on any residential premises in the authority's district, or
  - (b) that an area in their district should be dealt with as a clearance area,the officer must, without delay, make a report in writing to the authority which sets out his opinion together with the facts of the case.
- (7) The authority must consider any report made to them under subsection (6) as soon as possible.

#### **Commencement Information**

**I3** S. 4 wholly in force at 6.4.2006; s. 4 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 4 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(a); s. 4 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.)

### *Enforcement of housing standards*

## **5 Category 1 hazards: general duty to take enforcement action**

- (1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.
- (2) In subsection (1) “the appropriate enforcement action” means whichever of the following courses of action is indicated by subsection (3) or (4)—
  - (a) serving an improvement notice under section 11;
  - (b) making a prohibition order under section 20;
  - (c) serving a hazard awareness notice under section 28;
  - (d) taking emergency remedial action under section 40;
  - (e) making an emergency prohibition order under section 43;
  - (f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
  - (g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.
- (3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.
- (4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.
- (5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard—

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- (a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or
  - (b) another such course of action, where the first course of action is that mentioned in subsection (2)(g) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.
- (6) To determine whether a course of action mentioned in any of paragraphs (a) to (g) of subsection (2) is “available” to the authority in relation to the hazard, see the provision mentioned in that paragraph.
- (7) Section 6 applies for the purposes of this section.

**Modifications etc. (not altering text)**

- C1** S. 5 modified by [Housing Act 1985 \(c. 68\)](#), s. 265(1)(2) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by [Housing Act 2004 \(c. 34\)](#), ss. 46, 270(4)(5)(a)); S.I. 2006/1060, [art. 2\(1\)\(a\)](#) (with Sch.); S.I. 2006/1535, [art. 2\(a\)](#) (with Sch.)
- C2** S. 5 modified by [Housing Act 1985 \(c. 68\)](#), s. 289(2) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by [Housing Act 2004 \(c. 34\)](#), ss. 47, 270(4)(5)(a)); S.I. 2006/1060, [art. 2\(1\)\(a\)](#) (with Sch.); S.I. 2006/1535, [art. 2\(a\)](#) (with Sch.)
- C3** S. 5 modified by [Housing Act 1985 \(c. 68\)](#), s. 300(1)(a)(2)(a) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270(4)(5)(f), [Sch. 15 para. 20](#)); S.I. 2006/1060, [art. 2\(1\)\(d\)](#) (with Sch.); S.I. 2006/1535, [art. 2\(b\)](#) (with Sch.)

**Commencement Information**

- I4** S. 5 wholly in force at 16.6.2006; s. 5 not in force at Royal Assent see s. 270(4)(5); s. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, [art. 2\(1\)\(a\)](#) (with Sch.); s. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, [art. 2\(a\)](#) (with Sch.)

**6 Category 1 hazards: how duty under section 5 operates in certain cases**

- (1) This section explains the effect of provisions contained in subsection (2) of section 5.
- (2) In the case of paragraph (b) or (f) of that subsection, the reference to making an order such as is mentioned in that paragraph is to be read as a reference to making instead a determination under section 300(1) or (2) of the Housing Act 1985 (c. 68) (power to purchase for temporary housing use) in a case where the authority consider the latter course of action to be the better alternative in the circumstances.
- (3) In the case of paragraph (d) of that subsection, the authority may regard the taking of emergency remedial action under section 40 followed by the service of an improvement notice under section 11 as a single course of action.
- (4) In the case of paragraph (e) of that subsection, the authority may regard the making of an emergency prohibition order under section 43 followed by the service of a prohibition order under section 20 as a single course of action.
- (5) In the case of paragraph (g) of that subsection—
- (a) any duty to take the course of action mentioned in that paragraph is subject to the operation of subsections (2B) to (4) and (5B) of section 289 of the Housing Act 1985 (procedural and other restrictions relating to slum clearance declarations); and

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- (b) that paragraph does not apply in a case where the authority have already declared the area in which the premises concerned are situated to be a clearance area in accordance with section 289, but the premises have been excluded by virtue of section 289(2F)(b).

#### Commencement Information

- I5** S. 6 wholly in force at 16.6.2006; s. 6 not in force at Royal Assent see s. 270(4)(5); s. 6 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 6 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 7 Category 2 hazards: powers to take enforcement action

- (1) The provisions mentioned in subsection (2) confer power on a local housing authority to take particular kinds of enforcement action in cases where they consider that a category 2 hazard exists on residential premises.
- (2) The provisions are—
- (a) section 12 (power to serve an improvement notice),
  - (b) section 21 (power to make a prohibition order),
  - (c) section 29 (power to serve a hazard awareness notice),
  - (d) section 265(3) and (4) of the Housing Act 1985 (power to make a demolition order), and
  - (e) section 289(2ZB) of that Act (power to make a slum clearance declaration).
- (3) The taking by the authority of one of those kinds of enforcement action in relation to a particular category 2 hazard does not prevent them from taking either—
- (a) the same kind of action again, or
  - (b) a different kind of enforcement action,
- in relation to the hazard, where they consider that the action taken by them so far has not proved satisfactory.

#### Commencement Information

- I6** S. 7 wholly in force at 16.6.2006; s. 7 not in force at Royal Assent see s. 270(4)(5); s. 7 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 7 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 8 Reasons for decision to take enforcement action

- (1) This section applies where a local housing authority decide to take one of the kinds of enforcement action mentioned in section 5(2) or 7(2) (“the relevant action”).
- (2) The authority must prepare a statement of the reasons for their decision to take the relevant action.
- (3) Those reasons must include the reasons why the authority decided to take the relevant action rather than any other kind (or kinds) of enforcement action available to them under the provisions mentioned in section 5(2) or 7(2).

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- (4) A copy of the statement prepared under subsection (2) must accompany every notice, copy of a notice, or copy of an order which is served in accordance with—
- (a) Part 1 of Schedule 1 to this Act (service of improvement notices etc.),
  - (b) Part 1 of Schedule 2 to this Act (service of copies of prohibition orders etc.), or
  - (c) section 268 of the Housing Act 1985 (service of copies of demolition orders),
- in or in connection with the taking of the relevant action.
- (5) In subsection (4)—
- (a) the reference to Part 1 of Schedule 1 to this Act includes a reference to that Part as applied by section 28(7) or 29(7) (hazard awareness notices) or to section 40(7) (emergency remedial action); and
  - (b) the reference to Part 1 of Schedule 2 to this Act includes a reference to that Part as applied by section 43(4) (emergency prohibition orders).
- (6) If the relevant action consists of declaring an area to be a clearance area, the statement prepared under subsection (2) must be published—
- (a) as soon as possible after the relevant resolution is passed under section 289 of the Housing Act 1985, and
  - (b) in such manner as the authority consider appropriate.

#### Commencement Information

- I7** S. 8 wholly in force at 16.6.2006; s. 8 not in force at Royal Assent see s. 270(4)(5); s. 8 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 8 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 9 Guidance about inspections and enforcement action

- (1) The appropriate national authority may give guidance to local housing authorities about exercising—
- (a) their functions under this Chapter in relation to the inspection of premises and the assessment of hazards,
  - (b) their functions under Chapter 2 of this Part in relation to improvement notices, prohibition orders or hazard awareness notices,
  - (c) their functions under Chapter 3 in relation to emergency remedial action and emergency prohibition orders, or
  - (d) their functions under Part 9 of the Housing Act 1985 (c. 68) in relation to demolition orders and slum clearance.
- (2) A local housing authority must have regard to any guidance for the time being given under this section.
- (3) The appropriate national authority may give different guidance for different cases or descriptions of case or different purposes (including different guidance to different descriptions of local housing authority or to local housing authorities in different areas).
- (4) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.



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- (5) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).
- (6) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (5), either House resolves that the guidance or alterations be withdrawn.
- (7) Subsection (6) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.
- (8) In calculating the period of 40 days mentioned in subsection (5), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

**Modifications etc. (not altering text)**

- C4** S. 9 applied by [Housing Act 1985 \(c. 68\)](#), s. 269A (as inserted (6.4.2006 (E.) and 16.6.2006 (W.)) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270(4)(5)(f), [Sch. 15 para. 15](#)); [S.I. 2006/1060](#), [art. 2\(1\)\(d\)](#) (with [Sch.](#)); [S.I. 2006/1535](#), [art. 2\(b\)](#) (with [Sch.](#))

## 10 Consultation with fire and rescue authorities in certain cases

- (1) This section applies where a local housing authority—
  - (a) are satisfied that a prescribed fire hazard exists in an HMO or in any common parts of a building containing one or more flats, and
  - (b) intend to take in relation to the hazard one of the kinds of enforcement action mentioned in section 5(2) or section 7(2).
- (2) Before taking the enforcement action in question, the authority must consult the fire and rescue authority for the area in which the HMO or building is situated.
- (3) In the case of any proposed emergency measures, the authority’s duty under subsection (2) is a duty to consult that fire and rescue authority so far as it is practicable to do so before taking those measures.
- (4) In this section—
  - “emergency measures” means emergency remedial action under section 40 or an emergency prohibition order under section 43;
  - “fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004 (c. 21);
  - “prescribed fire hazard” means a category 1 or 2 hazard which is prescribed as a fire hazard for the purposes of this section by regulations under section 2.

**Commencement Information**

- I8** S. 10 wholly in force at 16.6.2006; s. 10 not in force at Royal Assent see [s. 270\(4\)\(5\)](#); s. 10 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 10 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

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## CHAPTER 2

### IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

#### *Improvement notices*

#### **11 Improvement notices relating to category 1 hazards: duty of authority to serve notice**

- (1) If—
- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
  - (b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

- (2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.
- (3) The notice may require remedial action to be taken in relation to the following premises—
  - (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;
  - (b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;
  - (c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

- (4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—
  - (a) that the deficiency from which the hazard arises is situated there, and
  - (b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) The remedial action required to be taken by the notice —
  - (a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but
  - (b) may extend beyond such action.
- (6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

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- (7) The operation of an improvement notice under this section may be suspended in accordance with section 14.
- (8) In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

#### Commencement Information

- I9** S. 11 wholly in force at 16.6.2006; s. 11 not in force at Royal Assent see s. 270(4)(5); s. 11 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 11 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 12 Improvement notices relating to category 2 hazards: power of authority to serve notice

- (1) If—
- the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and
  - no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,
- the authority may serve an improvement notice under this section in respect of the hazard.
- (2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 13.
- (3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.
- (4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.
- (5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.
- (6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

#### Commencement Information

- I10** S. 12 wholly in force at 16.6.2006; s. 12 not in force at Royal Assent see s. 270(4)(5); s. 12 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 12 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 13 Contents of improvement notices

- (1) An improvement notice under section 11 or 12 must comply with the following provisions of this section.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—
  - (a) whether the notice is served under section 11 or 12,
  - (b) the nature of the hazard and the residential premises on which it exists,
  - (c) the deficiency giving rise to the hazard,
  - (d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,
  - (e) the date when the remedial action is to be started (see subsection (3)), and
  - (f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.
- (3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.
- (4) The notice must contain information about—
  - (a) the right of appeal against the decision under Part 3 of Schedule 1, and
  - (b) the period within which an appeal may be made.
- (5) In this Part of this Act “specified premises”, in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

#### Commencement Information

**III** S. 13 wholly in force at 16.6.2006; s. 13 not in force at Royal Assent see s. 270(4)(5); s. 13 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 13 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 14 Suspension of improvement notices

- (1) An improvement notice may provide for the operation of the notice to be suspended until a time, or the occurrence of an event, specified in the notice.
- (2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.
- (3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from the person on whom the notice is served.
- (4) In subsection (3) a “notified breach”, in relation to such an undertaking, means an act or omission by the person on whom the notice is served—
  - (a) which the local housing authority consider to be a breach of the undertaking, and
  - (b) which is notified to that person in accordance with the terms of the undertaking.
- (5) If an improvement notice does provide for the operation of the notice to be suspended under this section—
  - (a) any periods specified in the notice under section 13 are to be fixed by reference to the day when the suspension ends, and

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (b) in subsection (3) of that section the reference to the 28th day after that on which the notice is served is to be read as referring to the 21st day after that on which the suspension ends.

#### Commencement Information

**I12** S. 14 wholly in force at 16.6.2006; s. 14 not in force at Royal Assent see s. 270(4)(5); s. 14 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 14 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 15 Operation of improvement notices

- (1) This section deals with the time when an improvement notice becomes operative.
- (2) The general rule is that an improvement notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under Part 1 of Schedule 1 (which is the period for appealing against the notice under Part 3 of that Schedule).
- (3) The general rule is subject to subsection (4) (suspended notices) and subsection (5) (appeals).
- (4) If the notice is suspended under section 14, the notice becomes operative at the time when the suspension ends.  
This is subject to subsection (5).
- (5) If an appeal against the notice is made under Part 3 of Schedule 1, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 19 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends).
- (6) If no appeal against an improvement notice is made under that Part of that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.

#### Commencement Information

**I13** S. 15 wholly in force at 16.6.2006; s. 15 not in force at Royal Assent see s. 270(4)(5); s. 15 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 15 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 16 Revocation and variation of improvement notices

- (1) The local housing authority must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with.
- (2) The local housing authority may revoke an improvement notice if—
  - (a) in the case of a notice served under section 11, they consider that there are any special circumstances making it appropriate to revoke the notice; or
  - (b) in the case of a notice served under section 12, they consider that it is appropriate to revoke the notice.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (3) Where an improvement notice relates to a number of hazards—
  - (a) subsection (1) is to be read as applying separately in relation to each of those hazards, and
  - (b) if, as a result, the authority are required to revoke only part of the notice, they may vary the remainder as they consider appropriate.
- (4) The local housing authority may vary an improvement notice—
  - (a) with the agreement of the person on whom the notice was served, or
  - (b) in the case of a notice whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.
- (5) A revocation under this section comes into force at the time when it is made.
- (6) If it is made with the agreement of the person on whom the improvement notice was served, a variation under this section comes into force at the time when it is made.
- (7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 20 of Schedule 1 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (8) The power to revoke or vary an improvement notice under this section is exercisable by the authority either—
  - (a) on an application made by the person on whom the improvement notice was served, or
  - (b) on the authority's own initiative.

#### Commencement Information

**I14** S. 16 wholly in force at 16.6.2006; s. 16 not in force at Royal Assent see s. 270(4)(5); s. 16 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 16 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 17 Review of suspended improvement notices

- (1) The local housing authority may at any time review an improvement notice whose operation is suspended.
- (2) The local housing authority must review an improvement notice whose operation is suspended not later than one year after the date of service of the notice and at subsequent intervals of not more than one year.
- (3) Copies of the authority's decision on a review under this section must be served—
  - (a) on the person on whom the improvement notice was served, and
  - (b) on every other person on whom a copy of the notice was required to be served.

#### Commencement Information

**I15** S. 17 wholly in force at 16.6.2006; s. 17 not in force at Royal Assent see s. 270(4)(5); s. 17 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 17 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

## 18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

### Commencement Information

**I16** S. 18 wholly in force at 16.6.2006; s. 18 not in force at Royal Assent see s. 270(4)(5); s. 18 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 18 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 19 Change in person liable to comply with improvement notice

- (1) This section applies where—
  - (a) an improvement notice has been served on any person (“the original recipient”) in respect of any premises, and
  - (b) at a later date (“the changeover date”) that person ceases to be a person of the relevant category in respect of the premises.
- (2) In subsection (1) the reference to a person ceasing to be a “person of the relevant category” is a reference to his ceasing to fall within the description of person (such as, for example, the holder of a licence under Part 2 or 3 or the person managing a dwelling) by reference to which the improvement notice was served on him.
- (3) As from the changeover date, the liable person in respect of the premises is to be in the same position as if—
  - (a) the improvement notice had originally been served on him, and
  - (b) he had taken all steps relevant for the purposes of this Part which the original recipient had taken.
- (4) The effect of subsection (3) is that, in particular, any period for compliance with the notice or for bringing any appeal is unaffected.
- (5) But where the original recipient has become subject to any liability arising by virtue of this Part before the changeover date, subsection (3) does not have the effect of—
  - (a) relieving him of the liability, or
  - (b) making the new liable person subject to it.
- (6) Subsection (3) applies with any necessary modifications where a person to whom it applies (by virtue of any provision of this section) ceases to be the liable person in respect of the premises.
- (7) Unless subsection (8) or (9) applies, the person who is at any time the “liable person” in respect of any premises is the person having control of the premises.
- (8) If—
  - (a) the original recipient was served as the person managing the premises, and
  - (b) there is a new person managing the premises as from the changeover date, that new person is the “liable person”.
- (9) If the original recipient was served as an owner of the premises, the “liable person” is the owner’s successor in title on the changeover date.

*Status: Point in time view as at 01/06/2009.*

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### Commencement Information

**I17** S. 19 wholly in force at 16.6.2006; s. 19 not in force at Royal Assent see s. 270(4)(5); s. 19 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 19 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## Prohibition orders

### 20 Prohibition orders relating to category 1 hazards: duty of authority to make order

- (1) If—
- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
  - (b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,
- making a prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).
- (2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsections (3) and (4) and section 22.
- (3) The order may prohibit use of the following premises—
- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may prohibit use of the dwelling or HMO;
  - (b) if those premises are one or more flats, it may prohibit use of the building containing the flat or flats (or any part of the building) or any external common parts;
  - (c) if those premises are the common parts of a building containing one or more flats, it may prohibit use of the building (or any part of the building) or any external common parts.
- Paragraphs (b) and (c) are subject to subsection (4).
- (4) The notice may not, by virtue of subsection (3)(b) or (c), prohibit use of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—
- (a) that the deficiency from which the hazard arises is situated there, and
  - (b) that it is necessary for such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) A prohibition order under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.
- (6) The operation of a prohibition order under this section may be suspended in accordance with section 23.



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### Commencement Information

**I18** S. 20 wholly in force at 16.6.2006; s. 20 not in force at Royal Assent see s. 270(4)(5); s. 20 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 20 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 21 Prohibition orders relating to category 2 hazards: power of authority to make order

- (1) If—
- (a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and
  - (b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,
- the authority may make a prohibition order under this section in respect of the hazard.
- (2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsection (3) and section 22.
- (3) Subsections (3) and (4) of section 20 apply to a prohibition order under this section as they apply to one under that section.
- (4) A prohibition order under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.
- (5) A prohibition order under this section may be combined in one document with an order under section 20 where they impose prohibitions on the use of the same premises or on the use of premises in the same building containing one or more flats.
- (6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

### Commencement Information

**I19** S. 21 wholly in force at 16.6.2006; s. 21 not in force at Royal Assent see s. 270(4)(5); s. 21 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 21 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 22 Contents of prohibition orders

- (1) A prohibition order under section 20 or 21 must comply with the following provisions of this section.
- (2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates—
- (a) whether the order is made under section 20 or 21,
  - (b) the nature of the hazard concerned and the residential premises on which it exists,
  - (c) the deficiency giving rise to the hazard,

*Status: Point in time view as at 01/06/2009.*

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- (d) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4)), and
  - (e) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25.
- (3) The order may impose such prohibition or prohibitions on the use of any premises as—
- (a) comply with section 20(3) and (4), and
  - (b) the local housing authority consider appropriate in view of the hazard or hazards in respect of which the order is made.
- (4) Any such prohibition may prohibit use of any specified premises, or of any part of those premises, either—
- (a) for all purposes, or
  - (b) for any particular purpose,
- except (in either case) to the extent to which any use of the premises or part is approved by the authority.
- (5) A prohibition imposed by virtue of subsection (4)(b) may, in particular, relate to—
- (a) occupation of the premises or part by more than a particular number of households or persons; or
  - (b) occupation of the premises or part by particular descriptions of persons.
- (6) The order must also contain information about—
- (a) the right under Part 3 of Schedule 2 to appeal against the order, and
  - (b) the period within which an appeal may be made,
- and specify the date on which the order is made.
- (7) Any approval of the authority for the purposes of subsection (4) must not be unreasonably withheld.
- (8) If the authority do refuse to give any such approval, they must notify the person applying for the approval of—
- (a) their decision,
  - (b) the reasons for it and the date on which it was made,
  - (c) the right to appeal against the decision under subsection (9), and
  - (d) the period within which an appeal may be made,
- within the period of seven days beginning with the day on which the decision was made.
- (9) The person applying for the approval may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified in the notice as the date on which it was made.
- (10) In this Part of this Act “specified premises”, in relation to a prohibition order, means premises specified in the order, in accordance with subsection (2)(d), as premises in relation to which prohibitions are imposed by the order.

#### **Commencement Information**

**I20** S. 22 wholly in force at 16.6.2006; s. 22 not in force at Royal Assent see s. 270(4)(5); s. 22 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 22 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

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## 23 Suspension of prohibition orders

- (1) A prohibition order may provide for the operation of the order to be suspended until a time, or the occurrence of an event, specified in the order.
- (2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.
- (3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from a person on whom a copy of the order is served.
- (4) In subsection (3) a “notified breach”, in relation to such an undertaking, means an act or omission by such a person—
  - (a) which the local housing authority consider to be a breach of the undertaking, and
  - (b) which is notified to that person in accordance with the terms of the undertaking.

### Commencement Information

**I21** S. 23 wholly in force at 16.6.2006; s. 23 not in force at Royal Assent see s. 270(4)(5); s. 23 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 23 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 24 Operation of prohibition orders

- (1) This section deals with the time when a prohibition order becomes operative.
- (2) The general rule is that a prohibition order becomes operative at the end of the period of 28 days beginning with the date specified in the notice as the date on which it is made.
- (3) The general rule is subject to subsection (4) (suspended orders) and subsection (5) (appeals).
- (4) If the order is suspended under section 23, the order becomes operative at the time when the suspension ends.

This is subject to subsection (5).
- (5) If an appeal is brought against the order under Part 3 of Schedule 2, the order does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 14 of that Schedule (time when order is confirmed on appeal, period for further appeal expires or suspension ends).
- (6) If no appeal against a prohibition order is made under that Part of that Schedule within the period for appealing against it, the order is final and conclusive as to matters which could have been raised on an appeal.
- (7) Sections 584A and 584B of the Housing Act 1985 (c. 68) provide for the payment of compensation where certain prohibition orders become operative, and for the repayment of such compensation in certain circumstances.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

#### Modifications etc. (not altering text)

- C5** S. 24 applied by [Housing Act 1985 \(c. 68\)](#), s. 300(5)(b) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270(4)(5)(f), [Sch. 15 para. 20](#)); S.I. 2006/1060, [art. 2\(1\)\(d\)](#) (with Sch.); S.I. 2006/1535, [art. 2\(b\)](#) (with Sch.)

#### Commencement Information

- I22** S. 24 wholly in force at 16.6.2006; s. 24 not in force at Royal Assent see [s. 270\(4\)\(5\)](#); s. 24 in force for E. at 6.4.2006 by S. I. 2006/1060, [art. 2\(1\)\(a\)](#) (with Sch.); s. 24 in force for W. at 16.6.2006 by S. I. 2006/1535, [art. 2\(a\)](#) (with Sch.)

## 25 Revocation and variation of prohibition orders

- (1) The local housing authority must revoke a prohibition order if at any time they are satisfied that the hazard in respect of which the order was made does not then exist on the residential premises specified in the order in accordance with section 22(2)(b).
- (2) The local housing authority may revoke a prohibition order if—
  - (a) in the case of an order made under section 20, they consider that there are any special circumstances making it appropriate to revoke the order; or
  - (b) in the case of an order made under section 21, they consider that it is appropriate to do so.
- (3) Where a prohibition order relates to a number of hazards—
  - (a) subsection (1) is to be read as applying separately in relation to each of those hazards, and
  - (b) if, as a result, the authority are required to revoke only part of the order, they may vary the remainder as they consider appropriate.
- (4) The local housing authority may vary a prohibition order—
  - (a) with the agreement of every person on whom copies of the notice were required to be served under Part 1 of Schedule 2, or
  - (b) in the case of an order whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.
- (5) A revocation under this section comes into force at the time when it is made.
- (6) If it is made with the agreement of every person within subsection (4)(a), a variation under this section comes into force at the time when it is made.
- (7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 15 of Schedule 2 (time when period for appealing expires without an appeal being made or when decision to revoke or vary is confirmed on appeal).
- (8) The power to revoke or vary a prohibition order under this section is exercisable by the authority either—
  - (a) on an application made by a person on whom a copy of the order was required to be served under Part 1 of Schedule 2, or
  - (b) on the authority's own initiative.

*Status: Point in time view as at 01/06/2009.*

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#### Commencement Information

**I23** S. 25 wholly in force at 16.6.2006; s. 25 not in force at Royal Assent see s. 270(4)(5); s. 25 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 25 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

### 26 Review of suspended prohibition orders

- (1) The local housing authority may at any time review a prohibition order whose operation is suspended.
- (2) The local housing authority must review a prohibition order whose operation is suspended not later than one year after the date on which the order was made and at subsequent intervals of not more than one year.
- (3) Copies of the authority's decision on a review under this section must be served on every person on whom a copy of the order was required to be served under Part 1 of Schedule 2.

#### Commencement Information

**I24** S. 26 wholly in force at 16.6.2006; s. 26 not in force at Royal Assent see s. 270(4)(5); s. 26 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 26 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

### 27 Service of copies of prohibition orders etc. and related appeals

Schedule 2 (which deals with the service of copies of prohibition orders, and notices relating to their revocation or variation, and with related appeals) has effect.

#### Commencement Information

**I25** S. 27 wholly in force at 16.6.2006; s. 27 not in force at Royal Assent see s. 270(4)(5); s. 27 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 27 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

#### *Hazard awareness notices*

### 28 Hazard awareness notices relating to category 1 hazards: duty of authority to serve notice

- (1) If—
  - (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
  - (b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

servicing a hazard awareness notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

*Status: Point in time view as at 01/06/2009.*

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- (2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 1 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.
- (3) The notice may be served in respect of the following premises—
- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may be served in respect of the dwelling or HMO;
  - (b) if those premises are one or more flats, it may be served in respect of the building containing the flat or flats (or any part of the building) or any external common parts;
  - (c) if those premises are the common parts of a building containing one or more flats, it may be served in respect of the building (or any part of the building) or any external common parts.
- Paragraphs (b) and (c) are subject to subsection (4).
- (4) The notice may not, by virtue of subsection (3)(b) or (c), be served in respect of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—
- (a) that the deficiency from which the hazard arises is situated there, and
  - (b) that it is desirable for the notice to be so served in the interests of the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) A notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.
- (6) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—
- (a) the nature of the hazard and the residential premises on which it exists,
  - (b) the deficiency giving rise to the hazard,
  - (c) the premises on which the deficiency exists,
  - (d) the authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and
  - (e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.
- (7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.
- (8) For that purpose, any reference in that Part of that Schedule to “the specified premises” is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (6)(c).

#### Commencement Information

**I26** S. 28 wholly in force at 16.6.2006; s. 28 not in force at Royal Assent see s. 270(4)(5); s. 28 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 28 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

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*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

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## **29 Hazard awareness notices relating to category 2 hazards: power of authority to serve notice**

- (1) If—
- (a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and
  - (b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,
- the authority may serve a hazard awareness notice under this section in respect of the hazard.
- (2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 2 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.
- (3) Subsections (3) and (4) of section 28 apply to a hazard awareness notice under this section as they apply to one under that section.
- (4) A notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.
- (5) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—
- (a) the nature of the hazard and the residential premises on which it exists,
  - (b) the deficiency giving rise to the hazard,
  - (c) the premises on which the deficiency exists,
  - (d) the authority’s reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and
  - (e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.
- (6) A notice under this section may be combined in one document with a notice under section 28 where they are served in respect of the same premises.
- (7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.
- (8) For that purpose, any reference in that Part of that Schedule to “the specified premises” is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (5)(c).

### **Commencement Information**

**I27** S. 29 wholly in force at 16.6.2006; s. 29 not in force at Royal Assent see s. 270(4)(5); s. 29 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 29 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

*Status: Point in time view as at 01/06/2009.*

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### *Enforcement: improvement notices*

## 30 Offence of failing to comply with improvement notice

- (1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.
- (2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice—
  - (a) (if no appeal is brought against the notice) not later than the date specified under section 13(2)(e) and within the period specified under section 13(2)(f);
  - (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 tribunal determining the appeal; and
  - (c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 13(2)(f).
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.
- (5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired.
- (6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.

#### Commencement Information

**I28** S. 30 wholly in force at 16.6.2006; s. 30 not in force at Royal Assent see s. 270(4)(5); s. 30 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 30 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 31 Enforcement action by local housing authorities

Schedule 3 (which enables enforcement action in respect of an improvement notice to be taken by local housing authorities either with or without agreement and which provides for the recovery of related expenses) has effect.

#### Commencement Information

**I29** S. 31 wholly in force at 16.6.2006; s. 31 not in force at Royal Assent see s. 270(4)(5); s. 31 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 31 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)



*Status: Point in time view as at 01/06/2009.*

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### *Enforcement: prohibition orders*

## **32 Offence of failing to comply with prohibition order etc.**

- (1) A person commits an offence if, knowing that a prohibition order has become operative in relation to any specified premises, he—
  - (a) uses the premises in contravention of the order, or
  - (b) permits the premises to be so used.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction—
  - (a) to a fine not exceeding level 5 on the standard scale, and
  - (b) to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for using the premises, or (as the case may be) permitting them to be used, in contravention of the order.

#### **Commencement Information**

**I30** S. 32 wholly in force at 16.6.2006; s. 32 not in force at Royal Assent see s. 270(4)(5); s. 32 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 32 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## **33 Recovery of possession of premises in order to comply with order**

Nothing in—

- (a) the Rent Act 1977 (c. 42) or the Rent (Agriculture) Act 1976 (c. 80), or
- (b) Part 1 of the Housing Act 1988 (c. 50),

prevents possession being obtained by the owner of any specified premises in relation to which a prohibition order is operative if possession of the premises is necessary for the purpose of complying with the order.

#### **Commencement Information**

**I31** S. 33 wholly in force at 16.6.2006; s. 33 not in force at Royal Assent see s. 270(4)(5); s. 33 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 33 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## **34 Power of tribunal to determine or vary lease**

- (1) Subsection (2) applies where—
  - (a) a prohibition order has become operative, and
  - (b) the whole or part of any specified premises form the whole or part of the subject matter of a lease.
- (2) The lessor or the lessee may apply to a residential property tribunal for an order determining or varying the lease.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (3) On such an application the tribunal may make an order determining or varying the lease, if it considers it appropriate to do so.
- (4) Before making such an order, the tribunal must give any sub-lessee an opportunity of being heard.
- (5) An order under this section may be unconditional or subject to such terms and conditions as the tribunal considers appropriate.
- (6) The conditions may, in particular, include conditions about the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.
- (7) In deciding what is appropriate for the purposes of this section, the tribunal must have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.
- (8) In this section “lessor” and “lessee” include a person deriving title under a lessor or lessee.

#### **Commencement Information**

**I32** S. 34 wholly in force at 16.6.2006; s. 34 not in force at Royal Assent see s. 270(4)(5); s. 34 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 34 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

*Enforcement: improvement notices and prohibition orders*

### **35 Power of court to order occupier or owner to allow action to be taken on premises**

- (1) This section applies where an improvement notice or prohibition order has become operative.
- (2) If the occupier of any specified premises—
  - (a) has received reasonable notice of any intended action in relation to the premises, but
  - (b) is preventing a relevant person, or any representative of a relevant person or of the local housing authority, from taking that action in relation to the premises,
 

a magistrates' court may order the occupier to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.
- (3) If a relevant person—
  - (a) has received reasonable notice of any intended action in relation to any specified premises, but
  - (b) is preventing a representative of the local housing authority from taking that action in relation to the premises,
 

a magistrates' court may order the relevant person to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.

*Status: Point in time view as at 01/06/2009.*

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- (4) A person who fails to comply with an order of the court under this section commits an offence.
- (5) In proceedings for an offence under subsection (4) it is a defence that the person had a reasonable excuse for failing to comply with the order.
- (6) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding £20 in respect of each day or part of a day during which the failure continues.
- (7) In this section “intended action”, in relation to any specified premises, means—
  - (a) where an improvement notice has become operative, any action which the person on whom that notice has been served is required by the notice to take in relation to the premises and which—
    - (a) (in the context of subsection (2)) is proposed to be taken by or on behalf of that person or on behalf of the local housing authority in pursuance of Schedule 3, or
    - (b) (in the context of subsection (3)) is proposed to be taken on behalf of the local housing authority in pursuance of Schedule 3;
  - (b) where a prohibition order has become operative, any action which is proposed to be taken and which either is necessary for the purpose of giving effect to the order or is remedial action specified in the order in accordance with section 22(2)(e).
- (8) In this section—

“relevant person”, in relation to any premises, means a person who is an owner of the premises, a person having control of or managing the premises, or the holder of any licence under Part 2 or 3 in respect of the premises;

“representative” in relation to a relevant person or a local housing authority, means any officer, employee, agent or contractor of that person or authority.

#### Commencement Information

**I33** S. 35 wholly in force at 16.6.2006; s. 35 not in force at Royal Assent see s. 270(4)(5); s. 35 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 35 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

### 36 Power of court to authorise action by one owner on behalf of another

- (1) Where an improvement notice or prohibition order has become operative, an owner of any specified premises may apply to a magistrates' court for an order under subsection (2).
- (2) A magistrates' court may, on an application under subsection (1), make an order enabling the applicant—
  - (a) immediately to enter on the premises, and
  - (b) to take any required action within a period fixed by the order.
- (3) In this section “required action” means—
  - (a) in the case of an improvement notice, any remedial action which is required to be taken by the notice;

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- (b) in the case of a prohibition order, any action necessary for the purpose of complying with the order or any remedial action specified in the order in accordance with section 22(2)(e).
- (4) No order may be made under subsection (2) unless the court is satisfied that the interests of the applicant will be prejudiced as a result of a failure by another person to take any required action.
- (5) No order may be made under subsection (2) unless notice of the application has been given to the local housing authority.
- (6) If it considers that it is appropriate to do so, the court may make an order in favour of any other owner of the premises which is similar to the order that it is making in relation to the premises under subsection (2).

#### Commencement Information

**I34** S. 36 wholly in force at 16.6.2006; s. 36 not in force at Royal Assent see s. 270(4)(5); s. 36 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 36 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

#### *Supplementary provisions*

### 37 Effect of improvement notices and prohibition orders as local land charges

- (1) An improvement notice or a prohibition order under this Chapter is a local land charge if subsection (2), (3) or (4) applies.
- (2) This subsection applies if the notice or order has become operative.
- (3) This subsection applies if—
  - (a) the notice or order is suspended under section 14 or 23, and
  - (b) the period for appealing against it under Part 3 of Schedule 1 or 2 has expired without an appeal having been brought.
- (4) This subsection applies if—
  - (a) the notice or order is suspended under section 14 or 23,
  - (b) an appeal has been brought against it under Part 3 of Schedule 1 or 2, and
  - (c) were it not suspended—
    - (i) the notice would have become operative under section 15(5) by virtue of paragraph 19(2) of Schedule 1 (improvement notices: confirmation on appeal or expiry of period for further appeal), or
    - (ii) the order would have become operative under section 24(5) by virtue of paragraph 14(2) of Schedule 2 (prohibition orders: confirmation on appeal or expiry of period for further appeal).

#### Commencement Information

**I35** S. 37 wholly in force at 16.6.2006; s. 37 not in force at Royal Assent see s. 270(4)(5); s. 37 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 37 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

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### **38 Savings for rights arising from breach of covenant etc.**

- (1) Nothing in this Chapter affects any remedy of an owner for breach of any covenant or contract entered into by a tenant in connection with any premises which are specified premises in relation to an improvement notice or prohibition order.
- (2) If an owner is obliged to take possession of any premises in order to comply with an improvement notice or prohibition order, the taking of possession does not affect his right to take advantage of any such breach which occurred before he took possession.
- (3) No action taken under this Chapter affects any remedy available to the tenant of any premises against his landlord (whether at common law or otherwise).

#### **Commencement Information**

**I36** S. 38 wholly in force at 16.6.2006; s. 38 not in force at Royal Assent see s. 270(4)(5); s. 38 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 38 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

### **39 Effect of Part 4 enforcement action and redevelopment proposals**

- (1) Subsection (2) applies if—
  - (a) an improvement notice or prohibition order has been served or made under this Chapter, and
  - (b) a management order under Chapter 1 or 2 of Part 4 comes into force in relation to the specified premises.
- (2) The improvement notice or prohibition order—
  - (a) if operative at the time when the management order comes into force, ceases to have effect at that time, and
  - (b) otherwise is to be treated as from that time as if it had not been served or made.
- (3) Subsection (2)(a) does not affect any right acquired or liability (civil or criminal) incurred before the improvement notice or prohibition order ceases to have effect.
- (4) Subsection (5) applies where, under section 308 of the Housing Act 1985 (c. 68) (owner's re-development proposals), the local housing authority have approved proposals for the re-development of land.
- (5) No action is to be taken under this Chapter in relation to the land if, and so long as, the re-development is being proceeded with (subject to any variation or extension approved by the authority)—
  - (a) in accordance with the proposals; and
  - (b) within the time limits specified by the local housing authority.

#### **Commencement Information**

**I37** S. 39 wholly in force at 16.6.2006; s. 39 not in force at Royal Assent see s. 270(4)(5); s. 39 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 39 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

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## CHAPTER 3

### EMERGENCY MEASURES

#### *Emergency remedial action*

#### **40 Emergency remedial action**

- (1) If—
- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
  - (b) they are further satisfied that 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
  - (c) no management order is in force under Chapter 1 or 2 of Part 4 in relation to the premises mentioned in paragraph (a),

the taking by the authority of emergency remedial action under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

- (2) “Emergency remedial action” means such remedial action in respect of the hazard concerned as the authority consider immediately necessary in order to remove the imminent risk of serious harm within subsection (1)(b).
- (3) Emergency remedial action under this section may be taken by the authority in relation to any premises in relation to which remedial action could be required to be taken by an improvement notice under section 11 (see subsections (3) and (4) of that section).
- (4) Emergency remedial action under this section may be taken by the authority in respect of more than one category 1 hazard on the same premises or in the same building containing one or more flats.
- (5) Paragraphs 3 to 5 of Schedule 3 (improvement notices: enforcement action by local authorities) apply in connection with the taking of emergency remedial action under this section as they apply in connection with the taking of the remedial action required by an improvement notice which has become operative but has not been complied with.

But those paragraphs so apply with the modifications set out in subsection (6).

- (6) The modifications are as follows—
  - (a) the right of entry conferred by paragraph 3(4) may be exercised at any time; and
  - (b) the notice required by paragraph 4 (notice before entering premises) must (instead of being served in accordance with that paragraph) be served on every person, who to the authority’s knowledge—
    - (i) is an occupier of the premises in relation to which the authority propose to take emergency remedial action, or
    - (ii) if those premises are common parts of a building containing one or more flats, is an occupier of any part of the building; but
  - (c) that notice is to be regarded as so served if a copy of it is fixed to some conspicuous part of the premises or building.

*Status: Point in time view as at 01/06/2009.*

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- (7) Within the period of seven days beginning with the date when the authority start taking emergency remedial action, the authority must serve—
  - (a) a notice under section 41, and
  - (b) copies of such a notice,on the persons on whom the authority would be required under Part 1 of Schedule 1 to serve an improvement notice and copies of it.
- (8) Section 240 (warrant to authorise entry) applies for the purpose of enabling a local housing authority to enter any premises to take emergency remedial action under this section in relation to the premises, as if—
  - (a) that purpose were mentioned in subsection (2) of that section, and
  - (b) the circumstances as to which the justice of the peace must be satisfied under subsection (4) were that there are reasonable grounds for believing that the authority will not be able to gain admission to the premises without a warrant.
- (9) For the purposes of the operation of any provision relating to improvement notices as it applies by virtue of this section in connection with emergency remedial action or a notice under section 41, any reference in that provision to the specified premises is to be read as a reference to the premises specified, in accordance with section 41(2)(c), as those in relation to which emergency remedial action has been (or is to be) taken.

#### Commencement Information

**I38** S. 40 wholly in force at 16.6.2006; s. 40 not in force at Royal Assent see s. 270(4)(5); s. 40 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 40 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 41 Notice of emergency remedial action

- (1) The notice required by section 40(7) is a notice which complies with the following requirements of this section.
- (2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—
  - (a) the nature of the hazard and the residential premises on which it exists,
  - (b) the deficiency giving rise to the hazard,
  - (c) the premises in relation to which emergency remedial action has been (or is to be) taken by the authority under section 40 and the nature of that remedial action,
  - (d) the power under which that remedial action has been (or is to be) taken by the authority, and
  - (e) the date when that remedial action was (or is to be) started.
- (3) The notice must contain information about—
  - (a) the right to appeal under section 45 against the decision of the authority to make the order, and
  - (b) the period within which an appeal may be made.

*Status: Point in time view as at 01/06/2009.*

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### Commencement Information

**I39** S. 41 wholly in force at 16.6.2006; s. 41 not in force at Royal Assent see s. 270(4)(5); s. 41 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 41 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 42 Recovery of expenses of taking emergency remedial action

- (1) This section relates to the recovery by a local housing authority of expenses reasonably incurred in taking emergency remedial action under section 40 (“emergency expenses”).
- (2) Paragraphs 6 to 14 of Schedule 3 (improvement notices: enforcement action by local authorities) apply for the purpose of enabling a local housing authority to recover emergency expenses as they apply for the purpose of enabling such an authority to recover expenses incurred in taking remedial action under paragraph 3 of that Schedule.

But those paragraphs so apply with the modifications set out in subsection (3).

- (3) The modifications are as follows—
  - (a) any reference to the improvement notice is to be read as a reference to the notice under section 41; and
  - (b) no amount is recoverable in respect of any emergency expenses until such time (if any) as is the operative time for the purposes of this subsection (see subsection (4)).
- (4) This subsection gives the meaning of “the operative time” for the purposes of subsection (3)—
  - (a) if no appeal against the authority’s decision to take the emergency remedial action is made under section 45 before the end of the period of 28 days mentioned in subsection (3)(a) of that section, “the operative time” is the end of that period;
  - (b) if an appeal is made under that section within that period and a decision is given on the appeal which confirms the authority’s decision, “the operative time” is as follows—
    - (i) if the period within which an appeal to the [<sup>F1</sup>Upper Tribunal] may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
    - (ii) if an appeal to the [<sup>F1</sup>Upper Tribunal] is brought, “the operative time” is the time when a decision is given on the appeal which confirms the authority’s decision.
- (5) For the purposes of subsection (4)—
  - (a) the withdrawal of an appeal has the same effect as a decision which confirms the authority’s decision, and
  - (b) references to a decision which confirms the authority’s decision are to a decision which confirms it with or without variation.



*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

#### Textual Amendments

- F1** Words in s. 42(4)(b)(i)(ii) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 272** (with Sch. 5)

#### Commencement Information

- I40** S. 42 wholly in force at 16.6.2006; s. 42 not in force at Royal Assent see s. 270(4)(5); s. 42 in force for E. at 6.4.2006 by [S. I. 2006/1060](#), **art. 2(1)(a)** (with Sch.); s. 42 in force for W. at 16.6.2006 by [S. I. 2006/1535](#), **art. 2(a)** (with Sch.)

### *Emergency prohibition orders*

## 43 Emergency prohibition orders

- (1) If—
- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
  - (b) they are further satisfied that 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
  - (c) no management order is in force under Chapter 1 or 2 of Part 4 in relation to the premises mentioned in paragraph (a),
- making an emergency prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).
- (2) An emergency prohibition order under this section is an order imposing, with immediate effect, such prohibition or prohibitions on the use of any premises as are specified in the order in accordance with subsection (3) and section 44.
- (3) As regards the imposition of any such prohibition or prohibitions, the following provisions apply to an emergency prohibition order as they apply to a prohibition order under section 20—
- (a) subsections (3) to (5) of that section, and
  - (b) subsections (3) to (5) and (7) to (9) of section 22.
- (4) Part 1 of Schedule 2 (service of copies of prohibition orders) applies in relation to an emergency prohibition order as it applies to a prohibition order, but any requirement to serve copies within a specified period of seven days is to be read as a reference to serve them on the day on which the emergency prohibition order is made (or, if that is not possible, as soon after that day as is possible).
- (5) The following provisions also apply to an emergency prohibition order as they apply to a prohibition order (or to a prohibition order which has become operative, as the case may be)—
- (a) section 25 (revocation and variation);
  - (b) sections 32 to 36 (enforcement);
  - (c) sections 37 to 39 (supplementary provisions); and
  - (d) Part 2 of Schedule 2 (notices relating to revocation or variation);

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (e) Part 3 of that Schedule (appeals) so far as it relates to any decision to vary, or to refuse to revoke or vary, a prohibition order; and
  - (f) sections 584A and 584B of the Housing Act 1985 (c. 68) (payment, and repayment, of compensation).
- (6) For the purposes of the operation of any provision relating to prohibition orders as it applies in connection with emergency prohibition orders by virtue of this section or section 45, any reference in that provision to the specified premises is to be read as a reference to the premises specified, in accordance with section 44(2)(c), as the premises in relation to which prohibitions are imposed by the order.

#### Commencement Information

**I41** S. 43 wholly in force at 16.6.2006; s. 43 not in force at Royal Assent see s. 270(4)(5); s. 43 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 43 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 44 Contents of emergency prohibition orders

- (1) An emergency prohibition order under section 43 must comply with the following requirements of this section.
- (2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates—
  - (a) the nature of the hazard concerned and the residential premises on which it exists,
  - (b) the deficiency giving rise to the hazard,
  - (c) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4) of section 22 as applied by section 43(3)), and
  - (d) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25 (as applied by section 43(5)).
- (3) The order must contain information about—
  - (a) the right to appeal under section 45 against the order, and
  - (b) the period within which an appeal may be made,
 and specify the date on which the order is made.

#### Commencement Information

**I42** S. 44 wholly in force at 16.6.2006; s. 44 not in force at Royal Assent see s. 270(4)(5); s. 44 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 44 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

## Appeals

### 45 Appeals relating to emergency measures

- (1) A person on whom a notice under section 41 has been served in connection with the taking of emergency remedial action under section 40 may appeal to a residential property tribunal against the decision of the local housing authority to take that action.
- (2) A relevant person may appeal to a residential property tribunal against an emergency prohibition order.
- (3) An appeal under subsection (1) or (2) must be made within the period of 28 days beginning with—
  - (a) the date specified in the notice under section 41 as the date when the emergency remedial action was (or was to be) started, or
  - (b) the date specified in the emergency prohibition order as the date on which the order was made,as the case may be.
- (4) A residential property tribunal may allow an appeal to be made to it after the end of that period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).
- (5) An appeal under subsection (1) or (2)—
  - (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (6) The tribunal may—
  - (a) in the case of an appeal under subsection (1), confirm, reverse or vary the decision of the authority;
  - (b) in the case of an appeal under subsection (2), confirm or vary the emergency prohibition order or make an order revoking it as from a date specified in that order.
- (7) Paragraph 16 of Schedule 2 applies for the purpose of identifying who is a relevant person for the purposes of subsection (2) in relation to an emergency prohibition order as it applies for the purpose of identifying who is a relevant person for the purposes of Part 3 of that Schedule in relation to a prohibition order.

#### Commencement Information

**I43** S. 45 wholly in force at 16.6.2006; s. 45 not in force at Royal Assent see s. 270(4)(5); s. 45 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 45 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

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*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

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## CHAPTER 4

### DEMOLITION ORDERS AND SLUM CLEARANCE DECLARATIONS

#### *Demolition orders*

#### 46 Demolition orders

For section 265 of the Housing Act 1985 (c. 68) substitute—

##### “265 Demolition orders

- (1) If—
  - (a) the local housing authority are satisfied that a category 1 hazard exists in a dwelling or HMO which is not a flat, and
  - (b) this subsection is not disapplied by subsection (5),
 making a demolition order in respect of the dwelling or HMO is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action).
- (2) If, in the case of any building containing one or more flats—
  - (a) the local housing authority are satisfied that a category 1 hazard exists in one or more of the flats contained in the building or in any common parts of the building, and
  - (b) this subsection is not disapplied by subsection (5),
 making a demolition order in respect of the building is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004.
- (3) The local housing authority may make a demolition order in respect of a dwelling or HMO which is not a flat if—
  - (a) they are satisfied that a category 2 hazard exists in the dwelling or HMO,
  - (b) this subsection is not disapplied by subsection (5), and
  - (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.
- (4) The local housing authority may make a demolition order in respect of any building containing one or more flats if—
  - (a) they are satisfied that a category 2 hazard exists in one or more of the flats contained in the building or in any common parts of the building,
  - (b) this subsection is not disapplied by subsection (5), and
  - (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.
- (5) None of subsections (1) to (4) applies if a management order under Chapter 1 or 2 of Part 4 is in force in relation to the premises concerned.
- (6) This section also has effect subject to section 304(1) (no demolition order to be made in respect of listed building).

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (7) In this section “HMO” means house in multiple occupation.
- (8) An order made under subsection (3) or (4)—
- (a) may make different provision for different cases or descriptions of case (including different provision for different areas);
  - (b) may contain such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Sections 584A and 584B provide for the payment of compensation where demolition orders are made under this section, and for the repayment of such compensation in certain circumstances.”

#### Commencement Information

**I44** S. 46 wholly in force at 16.6.2006; s. 46 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 46 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 46 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

### *Slum clearance declarations*

#### **47 Clearance areas**

In section 289 of the Housing Act 1985 (c. 68) (declaration of clearance area) for subsections (2) and (2A) substitute—

- “(2) If the local housing authority are satisfied, in relation to any area—
- (a) that each of the residential buildings in the area contains a category 1 hazard, and
  - (b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area,

declaring the area to be a clearance area is a course of action available to the authority in relation to the hazard or hazards for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action).

- (2ZA) The local housing authority may declare an area to be a clearance area if they are satisfied that—
- (a) the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets; and
  - (b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.
- (2ZB) The local housing authority may declare an area to be a clearance area if they are satisfied that—
- (a) that each of the residential buildings in the area contains a category 2 hazard,

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, and
- (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

Subsection (8) of section 265 applies in relation to an order under this subsection as it applies in relation to an order under subsection (3) or (4) of that section.

(2ZC) In this section “residential buildings” means buildings which are dwellings or houses in multiple occupation or contain one or more flats.

This is subject to subsection (2ZD).

(2ZD) For the purposes of subsection (2) or (2ZB)—

- (a) subsection (2ZC) applies as if “two or more flats” were substituted for “one or more flats”; and
- (b) a residential building containing two or more flats is only to be treated as containing a category 1 or 2 hazard if two or more of the flats within it contain such a hazard.

(2ZE) Subsections (2) to (2ZB) are subject to subsections (2B) to (4) and (5B).”

#### Commencement Information

**I45** S. 47 wholly in force at 16.6.2006; s. 47 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 47 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 47 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

### *Appeals*

#### **48 Transfer of jurisdiction in respect of appeals relating to demolition orders etc.**

(1) Part 9 of the Housing Act 1985 (c. 68) (slum clearance) is further amended as follows.

(2) In section 269 (right of appeal against demolition order etc.)—

- (a) in subsection (1), for “the county court” substitute “ a residential property tribunal ”;
- (b) in subsection (3), for “court” substitute “ tribunal ”; and
- (c) in subsection (6)(a) and (b), for “Court of Appeal” substitute “ Lands Tribunal ”.

(3) In section 272 (demolition orders)—

- (a) in subsection (2), for “the court” in the first place it appears substitute “ a residential property tribunal ”, and in the second place it appears substitute “ such a tribunal ”;
- (b) in subsection (5), for the words from the beginning to “and has” substitute “ A residential property tribunal has jurisdiction to hear and determine proceedings under subsection (1) (as well as those under subsection (2)), and a county court has ”; and
- (c) in subsection (6), for “the court” substitute “ a tribunal or court ”.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (4) In section 317 (power of court to determine lease where premises demolished etc.)—
- (a) in subsection (1), for “the county court” substitute “ a residential property tribunal ”; and
  - (b) in subsections (2) and (3), for “court” substitute “ tribunal ”.
- (5) In section 318 (power of court to authorise execution of works on unfit premises or for improvement)—
- (a) in the sidenote, for “court” substitute “ tribunal ”;
  - (b) in subsection (1), for “the court” in the first place it appears substitute “ a residential property tribunal ”, and in the second place it appears substitute “ the tribunal ”;
  - (c) in subsections (2) and (3), for “court” substitute “ tribunal ”; and
  - (d) omit subsection (4).

#### Commencement Information

**I46** S. 48 wholly in force at 16.6.2006; s. 48 not in force at Royal Assent see s. 270(4)(5); s. 48 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 48 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## CHAPTER 5

### GENERAL AND MISCELLANEOUS PROVISIONS RELATING TO ENFORCEMENT ACTION

#### *Recovery of expenses relating to enforcement action*

#### **49 Power to charge for certain enforcement action**

- (1) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in—
- (a) serving an improvement notice under section 11 or 12;
  - (b) making a prohibition order under section 20 or 21;
  - (c) serving a hazard awareness notice under section 28 or 29;
  - (d) taking emergency remedial action under section 40;
  - (e) making an emergency prohibition order under section 43; or
  - (f) making a demolition order under section 265 of the Housing Act 1985 (c. 68).
- (2) The expenses are, in the case of the service of an improvement notice or a hazard awareness notice, the expenses incurred in—
- (a) determining whether to serve the notice,
  - (b) identifying any action to be specified in the notice, and
  - (c) serving the notice.
- (3) The expenses are, in the case of emergency remedial action under section 40, the expenses incurred in—
- (a) determining whether to take such action, and
  - (b) serving the notice required by subsection (7) of that section.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (4) The expenses are, in the case of a prohibition order under section 20 or 21 of this Act, an emergency prohibition order under section 43 or a demolition order under section 265 of the Housing Act 1985, the expenses incurred in—
  - (a) determining whether to make the order, and
  - (b) serving copies of the order on persons as owners of premises.
- (5) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering expenses incurred by them in—
  - (a) carrying out any review under section 17 or 26, or
  - (b) serving copies of the authority’s decision on such a review.
- (6) The amount of the charge may not exceed such amount as is specified by order of the appropriate national authority.
- (7) Where a tribunal allows an appeal against the underlying notice or order mentioned in subsection (1), it may make such order as it considers appropriate reducing, quashing, or requiring the repayment of, any charge under this section made in respect of the notice or order.

#### Commencement Information

**I47** S. 49 wholly in force at 16.6.2006; s. 49 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 49 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 49 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

## 50 Recovery of charge under section 49

- (1) This section relates to the recovery by a local housing authority of a charge made by them under section 49.
- (2) In the case of—
  - (a) an improvement notice under section 11 or 12, or
  - (b) a hazard awareness notice under section 28 or 29,
 the charge may be recovered from the person on whom the notice is served.
- (3) In the case of emergency remedial action under section 40, the charge may be recovered from the person served with the notice required by subsection (7) of that section.
- (4) In the case of—
  - (a) a prohibition order under section 20 or 21,
  - (b) an emergency prohibition order under section 43, or
  - (c) a demolition order under section 265 of the Housing Act 1985 (c. 68),
 the charge may be recovered from any person on whom a copy of the order is served as an owner of the premises.
- (5) A demand for payment of the charge must be served on the person from whom the authority seek to recover it.
- (6) The demand becomes operative, if no appeal is brought against the underlying notice or order, at the end of the period of 21 days beginning with the date of service of the demand.



*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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)*

- (7) If such an appeal is brought and a decision is given on the appeal which confirms the underlying notice or order, the demand becomes operative at the time when—
- (a) the period within which an appeal to the [F<sup>2</sup>Upper Tribunal] may be brought expires without such an appeal having been brought, or
  - (b) a decision is given on such an appeal which confirms the notice or order.
- (8) For the purposes of subsection (7)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice or order, and
  - (b) references to a decision which confirms the notice or order are to a decision which confirms it with or without variation.
- (9) As from the time when the demand becomes operative, the sum recoverable by the authority is, until recovered, a charge on the premises concerned.
- (10) The charge takes effect at that time as a legal charge which is a local land charge.
- (11) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (12) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.
- (13) The appropriate national authority may by regulations prescribe the form of, and the particulars to be contained in, a demand for payment of any charge under section 49.

#### Textual Amendments

- F2** Words in s. 50(7)(a) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 273** (with Sch. 5)

#### Commencement Information

- I48** S. 50 wholly in force at 16.6.2006; s. 50 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 50 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with Sch.); s. 50 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

### Repeals

#### 51 Repeal of power to improve existing enforcement procedures

Omit section 86 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (power to improve existing enforcement procedures in relation to unfitness for human habitation etc.).

#### Commencement Information

- I49** S. 51 wholly in force at 16.6.2006; s. 51 not in force at Royal Assent see s. 270(4)(5); s. 51 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with Sch.); s. 51 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

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## 52 Repeal of provisions relating to demolition of obstructive buildings

Omit sections 283 to 288 of the Housing Act 1985 (c. 68) (demolition of obstructive buildings).

### Commencement Information

**I50** S. 52 wholly in force at 16.6.2006; s. 52 not in force at Royal Assent see s. 270(4)(5); s. 52 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 52 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 53 Miscellaneous repeals etc. in relation to fire hazards

- (1) In the London Building Acts (Amendment) Act 1939 (c. xcvi)—
- (a) omit section 35(1)(c)(i) (protection against fire in certain old buildings let in flats or tenements);
  - (b) in section 36(1) (projecting shops in which persons are employed or sleep) omit “or sleep”; and
  - (c) in section 37(1) (means of access to roofs), in paragraph (b) for the words from “except” onwards substitute “except to the extent that it is occupied for residential purposes;”.
- (2) In the County of Merseyside Act 1980 (c. x) omit section 48 (means of escape from fire) and section 49(1) and (2) (maintenance of means of escape from fire).
- (3) In the Building Act 1984 (c. 55) omit section 72(6)(a) (means of escape from fire in case of certain buildings let in flats or tenements).
- (4) In the Leicestershire Act 1985 (c. xvii) omit section 54(6)(a) (means of escape from fire in case of certain buildings used as flats or tenements).

### Commencement Information

**I51** S. 53 partly in force; s. 53 not in force at Royal Assent see s. 270(4)(5); s. 53 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

## Index

## 54 Index of defined expressions: Part 1

The following table shows where expressions used in this Part are defined or otherwise explained.

<i>Expression</i>	<i>Provision of this Act</i>
Appropriate national authority	Section 261(1)
Building containing one or more flats	Section 1(5)
Category 1 hazard	Section 2(1)
Category 2 hazard	Section 2(1)

*Status: Point in time view as at 01/06/2009.*

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Common parts	Section 1(5)
Compliance with improvement notice	Section 30(2)
District of local housing authority	Section 261(6)
Dwelling	Section 1(5), (6)
External common parts	Section 1(5)
Flat	Section 1(5) to (7)
Hazard	Section 2(1)
Hazard awareness notice	Section 28(2) or 29(2)
Health	Section 2(5)
HMO	Section 1(5), (6) (and see also section 1(8))
Improvement notice	Section 11(2) or 12(2)
Lease, lessee etc.	Section 262(1) to (4)
Local housing authority	Section 261(2) to (5)
Occupier (and related expressions)	Section 262(6)
Owner	Section 262(7)
Person having control	Section 263(1) and (2)
Person managing	Section 263(3) and (4)
Prohibition order	Section 20(2) or 21(2)
Remedial action	Section 11(8)
Residential premises	Section 1(4)
Residential property tribunal	Section 229
Specified premises, in relation to an improvement notice	Section 13(5)
Specified premises, in relation to a prohibition order	Section 22(10)
Tenancy, tenant	Section 262(1) to (5)
Unoccupied HMO accommodation	Section 1(5) (and see also section 1(8)).

#### **Commencement Information**

**I52** [S. 54](#) wholly in force at 16.6.2006; [s. 54](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 54](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 54](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

**Status:**

Point in time view as at 01/06/2009.

**Changes to legislation:**

Housing Act 2004, Part 1 is up to date with all changes known to be in force on or before 08 September 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.