



# Housing Act 2004

## 2004 CHAPTER 34

### PART 1

#### HOUSING CONDITIONS

#### 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),

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**Changes to legislation:** *Housing Act 2004, Chapter 4 is up to date with all changes known to be in force on or before 19 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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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).
- (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

- II** 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.)

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### *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,
- (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).”

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#### Commencement Information

- I2** 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 ”.
- (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

- I3** 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.)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)