



# Housing Act 2004

## 2004 CHAPTER 34

### PART 1

#### HOUSING CONDITIONS

#### 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.
- (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.

## **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.
- (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 Lands Tribunal may be brought expires without such an appeal having been brought, or

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- (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.

### *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.).

#### **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).

#### **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).

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- (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).

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**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)
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

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<i>Expression</i>	<i>Provision of this Act</i>
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)).

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