

SCHEDULES

SCHEDULE 1

Section 18

PROCEDURE AND APPEALS RELATING TO IMPROVEMENT NOTICES

PART 1

SERVICE OF IMPROVEMENT NOTICES

Service of improvement notices: premises licensed under Part 2 or 3

- 1 (1) This paragraph applies where the specified premises in the case of an improvement notice are—
- (a) a dwelling which is licensed under Part 3 of this Act, or
 - (b) an HMO which is licensed under Part 2 or 3 of this Act.
- (2) The local housing authority must serve the notice on the holder of the licence under that Part.

Service of improvement notices: premises which are neither licensed under Part 2 or 3 nor flats

- 2 (1) This paragraph applies where the specified premises in the case of an improvement notice are—
- (a) a dwelling which is not licensed under Part 3 of this Act, or
 - (b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is not a flat.
- (2) The local housing authority must serve the notice—
- (a) (in the case of a dwelling) on the person having control of the dwelling;
 - (b) (in the case of an HMO) either on the person having control of the HMO or on the person managing it.

Service of improvement notices: flats which are not licensed under Part 2 or 3

- 3 (1) This paragraph applies where any specified premises in the case of an improvement notice are—
- (a) a dwelling which is not licensed under Part 3 of this Act, or
 - (b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is a flat.
- (2) In the case of dwelling which is a flat, the local housing authority must serve the notice on a person who—
- (a) is an owner of the flat, and
 - (b) in the authority's opinion ought to take the action specified in the notice.

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- (3) In the case of an HMO which is a flat, the local housing authority must serve the notice either on a person who—
- (a) is an owner of the flat, and
 - (b) in the authority’s opinion ought to take the action specified in the notice,
- or on the person managing the flat.

Service of improvement notices: common parts

- 4 (1) This paragraph applies where any specified premises in the case of an improvement notice are—
- (a) common parts of a building containing one or more flats; or
 - (b) any part of such a building which does not consist of residential premises.
- (2) The local housing authority must serve the notice on a person who—
- (a) is an owner of the specified premises concerned, and
 - (b) in the authority’s opinion ought to take the action specified in the notice.
- (3) For the purposes of this paragraph a person is an owner of any common parts of a building if he is an owner of the building or part of the building concerned, or (in the case of external common parts) of the particular premises in which the common parts are comprised.

Service of copies of improvement notices

- 5 (1) In addition to serving an improvement notice in accordance with any of paragraphs 1 to 4, the local housing authority must serve a copy of the notice on every other person who, to their knowledge—
- (a) has a relevant interest in any specified premises, or
 - (b) is an occupier of any such premises.
- (2) A “relevant interest” means an interest as freeholder, mortgagee or lessee.
- (3) For the purposes of this paragraph a person has a relevant interest in any common parts of a building if he has a relevant interest in the building or part of the building concerned, or (in the case of external common parts) in the particular premises in which the common parts are comprised.
- (4) The copies required to be served under sub-paragraph (1) must be served within the period of seven days beginning with the day on which the notice is served.

PART 2

SERVICE OF NOTICES RELATING TO REVOCATION OR VARIATION OF IMPROVEMENT NOTICES

Notice of revocation or variation

- 6 (1) This paragraph applies where the local housing authority decide to revoke or vary an improvement notice.
- (2) The authority must serve—
- (a) a notice under this paragraph, and

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- (b) copies of that notice,
on the persons on whom they would be required under Part 1 of this Schedule to serve an improvement notice and copies of it in respect of the specified premises.
 - (3) Sub-paragraph (4) applies if, in so doing, the authority serve a notice under this paragraph on a person who is not the person on whom the improvement notice was served (“the original recipient”).
 - (4) The authority must serve a copy of the notice under this paragraph on the original recipient unless they consider that it would not be appropriate to do so.
 - (5) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- 7 A notice under paragraph 6 must set out—
- (a) the authority’s decision to revoke or vary the improvement notice;
 - (b) the reasons for the decision and the date on which it was made;
 - (c) if the decision is to vary the notice—
 - (i) the right of appeal against the decision under Part 3 of this Schedule, and
 - (ii) the period within which an appeal may be made (see paragraph 14(2)).

Notice of refusal to revoke or vary notice

- 8 (1) This paragraph applies where the local housing authority refuse to revoke or vary an improvement notice.
- (2) The authority must serve—
 - (a) a notice under this paragraph, and
 - (b) copies of that notice,on the persons on whom they would be required to serve an improvement notice and copies of it under Part 1 of this Schedule.
 - (3) Sub-paragraph (4) applies if, in so doing, the authority serve a notice under this paragraph on a person who is not the person on whom the improvement notice was served (“the original recipient”).
 - (4) The authority must serve a copy of the notice under this paragraph on the original recipient unless they consider that it would not be appropriate to do so.
 - (5) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- 9 A notice under paragraph 8 must set out—
- (a) the authority’s decision not to revoke or vary the improvement notice;
 - (b) the reasons for the decision and the date on which it was made;
 - (c) the right of appeal against the decision under Part 3 of this Schedule; and
 - (d) the period within which an appeal may be made (see paragraph 14(2)).

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PART 3

APPEALS RELATING TO IMPROVEMENT NOTICES

Appeal against improvement notice

- 10 (1) The person on whom an improvement notice is served may appeal to a residential property tribunal against the notice.
- (2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).
- 11 (1) An appeal may be made by a person under paragraph 10 on the ground that one or more other persons, as an owner or owners of the specified premises, ought to—
- (a) take the action concerned, or
 - (b) pay the whole or part of the cost of taking that action.
- (2) Where the grounds on which an appeal is made under paragraph 10 consist of or include the ground mentioned in sub-paragraph (1), the appellant must serve a copy of his notice of appeal on the other person or persons concerned.
- 12 (1) An appeal may be made by a person under paragraph 10 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the notice was served.
- (2) The courses of action are—
- (a) making a prohibition order under section 20 or 21 of this Act;
 - (b) serving a hazard awareness notice under section 28 or 29 of this Act; and
 - (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

Appeal against decision relating to variation or revocation of improvement notice

- 13 (1) The relevant person may appeal to a residential property tribunal against—
- (a) a decision by the local housing authority to vary an improvement notice, or
 - (b) a decision by the authority to refuse to revoke or vary an improvement notice.
- (2) In sub-paragraph (1) “the relevant person” means—
- (a) in relation to a decision within paragraph (a) of that provision, the person on whom the notice was served;
 - (b) in relation to a decision within paragraph (b) of that provision, the person who applied for the revocation or variation.

Time limit for appeal

- 14 (1) Any appeal under paragraph 10 must be made within the period of 21 days beginning with the date on which the improvement notice was served in accordance with Part 1 of this Schedule.
- (2) Any appeal under paragraph 13 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 6 or 8 as the date on which the decision concerned was made.

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- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) 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).

Powers of residential property tribunal on appeal under paragraph 10

- 15 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 10.
- (2) The appeal—
- (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.
- (3) The tribunal may by order confirm, quash or vary the improvement notice.
- (4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.
- 16 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 11.
- (2) On the hearing of the appeal the tribunal may—
- (a) vary the improvement notice so as to require the action to be taken by any owner mentioned in the notice of appeal in accordance with paragraph 11; or
 - (b) make such order as it considers appropriate with respect to the payment to be made by any such owner to the appellant or, where the action is taken by the local housing authority, to the authority.
- (3) In the exercise of its powers under sub-paragraph (2), the tribunal must take into account, as between the appellant and any such owner—
- (a) their relative interests in the premises concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
 - (b) their relative responsibility for the state of the premises which gives rise to the need for the taking of the action concerned; and
 - (c) the relative degree of benefit to be derived from the taking of the action concerned.
- (4) Sub-paragraph (5) applies where, by virtue of the exercise of the tribunal's powers under sub-paragraph (2), a person other than the appellant is required to take the action specified in an improvement notice.
- (5) So long as that other person remains an owner of the premises to which the notice relates, he is to be regarded for the purposes of this Part as the person on whom the notice was served (in place of any other person).
- 17 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 12.
- (2) When deciding whether one of the courses of action mentioned in paragraph 12(2) is the best course of action in relation to a particular hazard, the tribunal must have regard to any guidance given to the local housing authority under section 9.

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- (3) Sub-paragraph (4) applies where—
- (a) an appeal under paragraph 10 is allowed against an improvement notice in respect of a particular hazard; and
 - (b) the reason, or one of the reasons, for allowing the appeal is that one of the courses of action mentioned in paragraph 12(2) is the best course of action in relation to that hazard.
- (4) The tribunal must, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.

Powers of residential property tribunal on appeal under paragraph 13

- 18 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 13.
- (2) Paragraph 15(2) applies to such an appeal as it applies to an appeal under paragraph 10.
- (3) The tribunal may by order confirm, reverse or vary the decision of the local housing authority.
- (4) If the appeal is against a decision of the authority to refuse to revoke an improvement notice, the tribunal may make an order revoking the notice as from a date specified in the order.

“The operative time” for the purposes of section 15(5)

- 19 (1) This paragraph defines “the operative time” for the purposes of section 15(5) (operation of improvement notices).
- (2) If an appeal is made under paragraph 10 against an improvement notice which is not suspended, and a decision on the appeal is given which confirms the notice, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the notice.
- (3) If an appeal is made under paragraph 10 against an improvement notice which is suspended, and a decision is given on the appeal which confirms the notice, “the operative time” is as follows—
- (a) the time that would be the operative time under sub-paragraph (2) if the notice were not suspended, or
 - (b) if later, the time when the suspension ends.
- (4) For the purposes of sub-paragraph (2) or (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice, and
 - (b) references to a decision which confirms the notice are to a decision which confirms it with or without variation.

“The operative time” for the purposes of section 16(7)

- 20 (1) This paragraph defines “the operative time” for the purposes of section 16(7) (postponement of time when a variation of an improvement notice comes into force).
- (2) If no appeal is made under paragraph 13 before the end of the period of 28 days mentioned in paragraph 14(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 13 before the end of that period and a decision is given on the appeal which confirms the variation, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation, and
 - (b) references to a decision which confirms the variation are to a decision which confirms it with or without variation.