



# Housing Act 2004

## 2004 CHAPTER 34

### PART 1

#### HOUSING CONDITIONS

### CHAPTER 3

#### EMERGENCY MEASURES

##### *Emergency remedial action*

#### **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)—

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**Changes to legislation:** *Housing Act 2004, Section 42 is up to date with all changes known to be in force on or before 02 June 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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- (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 [F1Upper 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 [F1Upper 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.

#### 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

- I1** 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.)

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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\(3\)](#)