



# Housing Act 2004

## 2004 CHAPTER 34

### PART 1

#### HOUSING CONDITIONS

#### CHAPTER 2

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

##### *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;

*Status: Point in time view as at 06/04/2006.*

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- (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.

#### Commencement Information

- II [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.

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### Commencement Information

- I2** 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,
  - (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,

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- (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

- I3** 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.)

## 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

- I4** 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.

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- (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.

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

- C1** 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**

- I5** 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

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- (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.

#### Commencement Information

- 16** 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

- 17** 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.

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#### Commencement Information

- 18** 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.)

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