



Housing Act 2004

2004 CHAPTER 34

PART 1

HOUSING CONDITIONS

CHAPTER 2

IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

Improvement notices

11 Improvement notices relating to category 1 hazards: duty of authority to serve notice

- (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,

servicing an improvement notice 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) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.
- (3) The notice may require remedial action to be taken in relation to 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 require such action to be taken in relation to the dwelling or HMO;

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- (b) if those premises are one or more flats, it may require such action to be taken in relation to 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 require such action to be taken in relation to 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), require any remedial action to be taken in relation to 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 the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) The remedial action required to be taken by the notice —
 - (a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but
 - (b) may extend beyond such action.
- (6) An improvement notice 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.
- (7) The operation of an improvement notice under this section may be suspended in accordance with section 14.
- (8) In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

12 Improvement notices relating to category 2 hazards: power of authority to serve notice

- (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 serve an improvement notice under this section in respect of the hazard.
- (2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 13.
- (3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.
- (4) An improvement notice 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.

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- (5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.
- (6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

13 Contents of improvement notices

- (1) An improvement notice under section 11 or 12 must comply with the following provisions of this section.
- (2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—
 - (a) whether the notice is served under section 11 or 12,
 - (b) the nature of the hazard and the residential premises on which it exists,
 - (c) the deficiency giving rise to the hazard,
 - (d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,
 - (e) the date when the remedial action is to be started (see subsection (3)), and
 - (f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.
- (3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.
- (4) The notice must contain information about—
 - (a) the right of appeal against the decision under Part 3 of Schedule 1, and
 - (b) the period within which an appeal may be made.
- (5) In this Part of this Act “specified premises”, in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

14 Suspension of improvement notices

- (1) An improvement notice may provide for the operation of the notice to be suspended until a time, or the occurrence of an event, specified in the notice.
- (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 the person on whom the notice is served.
- (4) In subsection (3) a “notified breach”, in relation to such an undertaking, means an act or omission by the person on whom the notice is served—
 - (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.

- (5) If an improvement notice does provide for the operation of the notice to be suspended under this section—
- (a) any periods specified in the notice under section 13 are to be fixed by reference to the day when the suspension ends, and
 - (b) in subsection (3) of that section the reference to the 28th day after that on which the notice is served is to be read as referring to the 21st day after that on which the suspension ends.

15 Operation of improvement notices

- (1) This section deals with the time when an improvement notice becomes operative.
- (2) The general rule is that an improvement notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under Part 1 of Schedule 1 (which is the period for appealing against the notice under Part 3 of that Schedule).
- (3) The general rule is subject to subsection (4) (suspended notices) and subsection (5) (appeals).
- (4) If the notice is suspended under section 14, the notice becomes operative at the time when the suspension ends.

This is subject to subsection (5).
- (5) If an appeal against the notice is made under Part 3 of Schedule 1, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 19 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends).
- (6) If no appeal against an improvement notice is made under that Part of that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.

16 Revocation and variation of improvement notices

- (1) The local housing authority must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with.
- (2) The local housing authority may revoke an improvement notice if—
 - (a) in the case of a notice served under section 11, they consider that there are any special circumstances making it appropriate to revoke the notice; or
 - (b) in the case of a notice served under section 12, they consider that it is appropriate to revoke the notice.
- (3) Where an improvement notice 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 notice, they may vary the remainder as they consider appropriate.
- (4) The local housing authority may vary an improvement notice—
 - (a) with the agreement of the person on whom the notice was served, or

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- (b) in the case of a notice 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 the person on whom the improvement notice was served, 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 20 of Schedule 1 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (8) The power to revoke or vary an improvement notice under this section is exercisable by the authority either—
 - (a) on an application made by the person on whom the improvement notice was served, or
 - (b) on the authority’s own initiative.

17 Review of suspended improvement notices

- (1) The local housing authority may at any time review an improvement notice whose operation is suspended.
- (2) The local housing authority must review an improvement notice whose operation is suspended not later than one year after the date of service of the notice 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—
 - (a) on the person on whom the improvement notice was served, and
 - (b) on every other person on whom a copy of the notice was required to be served.

18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

19 Change in person liable to comply with improvement notice

- (1) This section applies where—
 - (a) an improvement notice has been served on any person (“the original recipient”) in respect of any premises, and
 - (b) at a later date (“the changeover date”) that person ceases to be a person of the relevant category in respect of the premises.
- (2) In subsection (1) the reference to a person ceasing to be a “person of the relevant category” is a reference to his ceasing to fall within the description of person (such as, for example, the holder of a licence under Part 2 or 3 or the person managing a dwelling) by reference to which the improvement notice was served on him.
- (3) As from the changeover date, the liable person in respect of the premises is to be in the same position as if—
 - (a) the improvement notice had originally been served on him, and

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- (b) he had taken all steps relevant for the purposes of this Part which the original recipient had taken.
- (4) The effect of subsection (3) is that, in particular, any period for compliance with the notice or for bringing any appeal is unaffected.
- (5) But where the original recipient has become subject to any liability arising by virtue of this Part before the changeover date, subsection (3) does not have the effect of—
 - (a) relieving him of the liability, or
 - (b) making the new liable person subject to it.
- (6) Subsection (3) applies with any necessary modifications where a person to whom it applies (by virtue of any provision of this section) ceases to be the liable person in respect of the premises.
- (7) Unless subsection (8) or (9) applies, the person who is at any time the “liable person” in respect of any premises is the person having control of the premises.
- (8) If—
 - (a) the original recipient was served as the person managing the premises, and
 - (b) there is a new person managing the premises as from the changeover date, that new person is the “liable person”.
- (9) If the original recipient was served as an owner of the premises, the “liable person” is the owner’s successor in title on the changeover date.

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;
 - (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.

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.

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,

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- (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,
 - (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.

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.

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.
- (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.

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.

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- (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
 - (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.

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.

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.

Hazard awareness notices

28 Hazard awareness notices relating to category 1 hazards: duty of authority to serve notice

- (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,

serving a hazard awareness notice 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 hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 1 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.
- (3) The notice may be served in respect 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 be served in respect of the dwelling or HMO;
 - (b) if those premises are one or more flats, it may be served in respect 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 be served in respect 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), be served in respect 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 desirable for the notice to be so served in the interests of the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) A notice 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) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—
 - (a) the nature of the hazard and the residential premises on which it exists,
 - (b) the deficiency giving rise to the hazard,
 - (c) the premises on which the deficiency exists,
 - (d) the authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and
 - (e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.
- (7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.
- (8) For that purpose, any reference in that Part of that Schedule to “the specified premises” is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (6)(c).

29 Hazard awareness notices relating to category 2 hazards: power of authority to serve notice

- (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 serve a hazard awareness notice under this section in respect of the hazard.
- (2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 2 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.
- (3) Subsections (3) and (4) of section 28 apply to a hazard awareness notice under this section as they apply to one under that section.
- (4) A notice 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 notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—
- (a) the nature of the hazard and the residential premises on which it exists,
 - (b) the deficiency giving rise to the hazard,
 - (c) the premises on which the deficiency exists,
 - (d) the authority’s reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and
 - (e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.
- (6) A notice under this section may be combined in one document with a notice under section 28 where they are served in respect of the same premises.
- (7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.
- (8) For that purpose, any reference in that Part of that Schedule to “the specified premises” is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (5)(c).

Enforcement: improvement notices

30 Offence of failing to comply with improvement notice

- (1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.
- (2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice—

- (a) (if no appeal is brought against the notice) not later than the date specified under section 13(2)(e) and within the period specified under section 13(2)(f);
 - (b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the tribunal determining the appeal; and
 - (c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 13(2)(f).
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.
- (5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired.
- (6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.

31 Enforcement action by local housing authorities

Schedule 3 (which enables enforcement action in respect of an improvement notice to be taken by local housing authorities either with or without agreement and which provides for the recovery of related expenses) has effect.

Enforcement: prohibition orders

32 Offence of failing to comply with prohibition order etc.

- (1) A person commits an offence if, knowing that a prohibition order has become operative in relation to any specified premises, he—
- (a) uses the premises in contravention of the order, or
 - (b) permits the premises to be so used.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale, and
 - (b) to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for using the premises, or (as the case may be) permitting them to be used, in contravention of the order.

33 Recovery of possession of premises in order to comply with order

Nothing in—

- (a) the Rent Act 1977 (c. 42) or the Rent (Agriculture) Act 1976 (c. 80), or
- (b) Part 1 of the Housing Act 1988 (c. 50),

prevents possession being obtained by the owner of any specified premises in relation to which a prohibition order is operative if possession of the premises is necessary for the purpose of complying with the order.

34 Power of tribunal to determine or vary lease

- (1) Subsection (2) applies where—
 - (a) a prohibition order has become operative, and
 - (b) the whole or part of any specified premises form the whole or part of the subject matter of a lease.
- (2) The lessor or the lessee may apply to a residential property tribunal for an order determining or varying the lease.
- (3) On such an application the tribunal may make an order determining or varying the lease, if it considers it appropriate to do so.
- (4) Before making such an order, the tribunal must give any sub-lessee an opportunity of being heard.
- (5) An order under this section may be unconditional or subject to such terms and conditions as the tribunal considers appropriate.
- (6) The conditions may, in particular, include conditions about the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.
- (7) In deciding what is appropriate for the purposes of this section, the tribunal must have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.
- (8) In this section “lessor” and “lessee” include a person deriving title under a lessor or lessee.

Enforcement: improvement notices and prohibition orders

35 Power of court to order occupier or owner to allow action to be taken on premises

- (1) This section applies where an improvement notice or prohibition order has become operative.
- (2) If the occupier of any specified premises—
 - (a) has received reasonable notice of any intended action in relation to the premises, but
 - (b) is preventing a relevant person, or any representative of a relevant person or of the local housing authority, from taking that action in relation to the premises,
 a magistrates' court may order the occupier to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.
- (3) If a relevant person—
 - (a) has received reasonable notice of any intended action in relation to any specified premises, but

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- (b) is preventing a representative of the local housing authority from taking that action in relation to the premises,
a magistrates' court may order the relevant person to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.
- (4) A person who fails to comply with an order of the court under this section commits an offence.
- (5) In proceedings for an offence under subsection (4) it is a defence that the person had a reasonable excuse for failing to comply with the order.
- (6) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding £20 in respect of each day or part of a day during which the failure continues.
- (7) In this section “intended action”, in relation to any specified premises, means—
- (a) where an improvement notice has become operative, any action which the person on whom that notice has been served is required by the notice to take in relation to the premises and which—
- (a) (in the context of subsection (2)) is proposed to be taken by or on behalf of that person or on behalf of the local housing authority in pursuance of Schedule 3, or
- (b) (in the context of subsection (3)) is proposed to be taken on behalf of the local housing authority in pursuance of Schedule 3;
- (b) where a prohibition order has become operative, any action which is proposed to be taken and which either is necessary for the purpose of giving effect to the order or is remedial action specified in the order in accordance with section 22(2)(e).
- (8) In this section—
- “relevant person”, in relation to any premises, means a person who is an owner of the premises, a person having control of or managing the premises, or the holder of any licence under Part 2 or 3 in respect of the premises;
- “representative” in relation to a relevant person or a local housing authority, means any officer, employee, agent or contractor of that person or authority.

36 Power of court to authorise action by one owner on behalf of another

- (1) Where an improvement notice or prohibition order has become operative, an owner of any specified premises may apply to a magistrates' court for an order under subsection (2).
- (2) A magistrates' court may, on an application under subsection (1), make an order enabling the applicant—
- (a) immediately to enter on the premises, and
- (b) to take any required action within a period fixed by the order.
- (3) In this section “required action” means—
- (a) in the case of an improvement notice, any remedial action which is required to be taken by the notice;

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- (b) in the case of a prohibition order, any action necessary for the purpose of complying with the order or any remedial action specified in the order in accordance with section 22(2)(e).
- (4) No order may be made under subsection (2) unless the court is satisfied that the interests of the applicant will be prejudiced as a result of a failure by another person to take any required action.
- (5) No order may be made under subsection (2) unless notice of the application has been given to the local housing authority.
- (6) If it considers that it is appropriate to do so, the court may make an order in favour of any other owner of the premises which is similar to the order that it is making in relation to the premises under subsection (2).

Supplementary provisions

37 Effect of improvement notices and prohibition orders as local land charges

- (1) An improvement notice or a prohibition order under this Chapter is a local land charge if subsection (2), (3) or (4) applies.
- (2) This subsection applies if the notice or order has become operative.
- (3) This subsection applies if—
 - (a) the notice or order is suspended under section 14 or 23, and
 - (b) the period for appealing against it under Part 3 of Schedule 1 or 2 has expired without an appeal having been brought.
- (4) This subsection applies if—
 - (a) the notice or order is suspended under section 14 or 23,
 - (b) an appeal has been brought against it under Part 3 of Schedule 1 or 2, and
 - (c) were it not suspended—
 - (i) the notice would have become operative under section 15(5) by virtue of paragraph 19(2) of Schedule 1 (improvement notices: confirmation on appeal or expiry of period for further appeal), or
 - (ii) the order would have become operative under section 24(5) by virtue of paragraph 14(2) of Schedule 2 (prohibition orders: confirmation on appeal or expiry of period for further appeal).

38 Savings for rights arising from breach of covenant etc.

- (1) Nothing in this Chapter affects any remedy of an owner for breach of any covenant or contract entered into by a tenant in connection with any premises which are specified premises in relation to an improvement notice or prohibition order.
- (2) If an owner is obliged to take possession of any premises in order to comply with an improvement notice or prohibition order, the taking of possession does not affect his right to take advantage of any such breach which occurred before he took possession.
- (3) No action taken under this Chapter affects any remedy available to the tenant of any premises against his landlord (whether at common law or otherwise).

39 Effect of Part 4 enforcement action and redevelopment proposals

- (1) Subsection (2) applies if—
 - (a) an improvement notice or prohibition order has been served or made under this Chapter, and
 - (b) a management order under Chapter 1 or 2 of Part 4 comes into force in relation to the specified premises.
- (2) The improvement notice or prohibition order—
 - (a) if operative at the time when the management order comes into force, ceases to have effect at that time, and
 - (b) otherwise is to be treated as from that time as if it had not been served or made.
- (3) Subsection (2)(a) does not affect any right acquired or liability (civil or criminal) incurred before the improvement notice or prohibition order ceases to have effect.
- (4) Subsection (5) applies where, under section 308 of the Housing Act 1985 (c. 68) (owner's re-development proposals), the local housing authority have approved proposals for the re-development of land.
- (5) No action is to be taken under this Chapter in relation to the land if, and so long as, the re-development is being proceeded with (subject to any variation or extension approved by the authority)—
 - (a) in accordance with the proposals; and
 - (b) within the time limits specified by the local housing authority.