



# Building Act 1984

## 1984 CHAPTER 55

### PART IV

#### GENERAL

#### *Appeal against notice requiring works*

#### **102 Appeal against notice requiring works**

- (1) Where a person is given a notice in relation to which it is declared by any provision of this Act that this section applies, he may appeal to a magistrates' court on any of the following grounds that are appropriate in the circumstances of the particular case—
  - (a) that the notice or requirement is not justified by the terms of the provision under which it purports to have been given,
  - (b) that there has been some informality, defect or error in, or in connection with, the notice,
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary,
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose,
  - (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served,
  - (f) where the works are works for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.
- (2) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The appellant—
- (a) shall, where the grounds upon which the appeal is brought include a ground specified in subsection (1)(e) or (f) above, serve a copy of his notice of appeal on each other person referred to, and
  - (b) may, in the case of any appeal under this section, serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal the court may make such order as it thinks fit with respect to—
    - (i) the person by whom any works are to be executed and the contribution to be made by any other person towards the cost of the works, or
    - (ii) the proportions in which any expenses that may become recoverable by the local authority are to be borne by the appellant and such other person.
- (4) In exercising its powers under subsection (3) above, the court shall have regard—
- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required, and
  - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (5) This section has effect subject to any modification specified in the provision under which the notice is given.