



Building Act 1984

1984 CHAPTER 55

PART III

OTHER PROVISIONS ABOUT BUILDINGS

Defective premises, demolition etc.

76 Defective premises.

- (1) If it appears to a local authority that—
- any premises are in such a state (in this section referred to as a “defective state”) as to be prejudicial to health or a nuisance, and
 - unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by [F1section 80 of the Environmental Protection Act 1990],

the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 93 (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects that they intend to remedy.

- (2) Subject to subsection (3) below, the local authority may, after the expiration of nine days after service of a notice under subsection (1) above, execute such works as may be necessary to remedy the defective state, and recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (3) If, within seven days after service of a notice under subsection (1) above, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned notice unless the person who served the counter-notice—
- fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or

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- (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) In proceedings to recover expenses under subsection (2) above, the court—
- (a) shall inquire whether the local authority were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure prescribed by [^{F1}section 80 of the Environmental Protection Act 1990], and
- (b) if the defendant proves that he served a counter-notice under subsection (3) above, shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,
- and if the court determines that—
- (i) the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
- (ii) there was no failure under paragraph (b) of this subsection,
- the local authority shall not recover the expenses or any part of them.
- (5) Subject to subsection (4) above, in proceedings to recover expenses under subsection (2) above, the court may—
- (a) inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
- (b) make such order concerning the expenses or their apportionment as appears to the court to be just,
- but the court shall not order the expenses or any part of them to be borne by a person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.
- (6) A local authority shall not serve a notice under subsection (1) above, or proceed with the execution of works in accordance with a notice so served, if the execution of the works would, to their knowledge, be in contravention of a building preservation order under section 29 of the ^{M1}Town and Country Planning Act 1947.
- (7) The power conferred on a local authority by subsection (1) above may be exercised notwithstanding that the local authority might instead have proceeded under [^{F2}Part VI of the Housing Act 1985 (repair notices)].

Textual Amendments

- F1** Words substituted by [Environmental Protection Act 1990 \(c.43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 24](#)
- F2** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c.71, SIF 61\)](#), ss. 4, 5(2), [Sch. 2 para. 58\(2\)](#), [Sch. 4](#)

Modifications etc. (not altering text)

- C1** S. 76 applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(2)(3), [Sch.2](#). S. 76 applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(2)(3), [Sch.2](#).
- C2** S. 76: certain functions transferred (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(1)(3), [Sch.2](#). S. 76: certain functions transferred (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(1)(3), [Sch.2](#).
- C3** S. 76 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\)](#), arts. 1, 4, [Sch.](#)
- C4** S. 76 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\)](#), arts. 1(1), 4, [Sch.](#)

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- C5** S. 76 modified (E.) (6.4.2010) by [The Cornwall Port Health Authority Order 2010 \(S.I. 2010/1215\)](#), arts. 1(1), 4, **Sch. 2** (with art. 2)
- C6** S. 76 applied (with modifications) (E.) (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\)](#), arts. 1(1), 9, **Sch. 2**
- C7** S. 76 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\)](#), arts. 1(1), 9, **Sch. 2**
- C8** S. 76 functions transferred and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\)](#), arts. 1(1), 9, **Sch. 2** (with art. 9(3))

Marginal Citations

- M1** 1947 c. 51.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1A)(d) inserted by [2015 c. 7 s. 37\(2\)](#)
- s. 44(11) inserted by [2004 c. 22 s. 3\(8\)](#)
- s. 79A inserted by [2023 asc 3 Sch. 13 para. 65](#)
- s. 95(5) inserted by [2022 c. 30 s. 60\(2\)](#)
- s. 131A inserted by [2022 c. 30 s. 59](#)
- s. 131B inserted by [2022 c. 30 s. 60\(3\)](#)
- Sch. 1 para. 7A inserted by [2015 c. 7 s. 37\(4\)](#)
- Sch. 1 para. 7A(4) words substituted by [2022 c. 30 Sch. 5 para. 83\(5\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of Sch. 1 para. 7A by [2015 c. 7, s. 37\(4\)](#) is still prospective.)