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SCHEDULES

SCHEDULE 9

AMENDMENTS OF PARTS VI, IX, XI, XVII AND XVIII OF THE HOUSING ACT 1985

PART II

AMENDMENTS OF PART IX

- 14 For sections 264 (power to accept undertaking as to reconstruction or use of unfit house) and 265 (demolition or closing order to be made where no undertaking accepted or undertaking broken) there shall be substituted the following sections—

“264 Power to make closing order.

- (1) Where the local housing authority are satisfied that a dwelling-house or house in multiple occupation is unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a closing order with respect to the dwelling-house or house in multiple occupation.
- (2) Where the local housing authority are satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a closing order with respect to the whole or part of the building.
- (3) In deciding for the purposes of subsection (2)—
 - (a) whether to make a closing order with respect to the whole or part of the building; or
 - (b) in respect of which part of the building to make a closing order;the authority shall have regard to such guidance as may from time to time be given by the Secretary of State under section 604A.
- (4) This section has effect subject to section 300(1) (power to purchase for temporary housing use houses liable to be demolished or closed).

265 Power to make demolition order.

- (1) Where the local housing authority are satisfied that—
 - (a) a dwelling-house which is not a flat, or
 - (b) a house in multiple occupation which is not a flat in multiple occupation,is unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory

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course of action, they shall make a demolition order with respect to the dwelling-house or house concerned.

(2) Where the local housing authority are satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a demolition order with respect to the building.

(3) This section has effect subject to sections 300(1) (power to purchase for temporary housing use houses liable to be demolished or closed) and 304(1) (listed buildings and buildings protected by notice pending listing)."

15 Section 266 (power to make closing order as to part of building) shall cease to have effect.

16 (1) In section 268 (service of notice of order), in subsection (1), paragraph (a) shall be omitted and in paragraph (b) the word "other" shall be omitted.

(2) After that subsection there shall be inserted the following subsection—

“(1A) Where the premises in respect of which a demolition or closing order is made is a building or part of a building containing flats, any reference in paragraphs (b) and (c) of subsection (1) to “the premises” includes a reference to the flats in the building or part of the building concerned.”

17 (1) In section 269 (right of appeal against order), in subsection (2) after the word “premises” there shall be inserted “ or part of the premises ”.

(2) After that subsection there shall be inserted the following subsection—

“(2A) Without prejudice to the generality of subsection (1), it shall be a ground of appeal—

(a) in the case of a closing order, that serving a repair notice under section 189 or making a demolition order under section 265 is the most satisfactory course of action; and

(b) in the case of a demolition order, that serving a repair notice under section 189 or making a closing order under section 264 is the most satisfactory course of action;

and, where the grounds on which an appeal is brought are or include that specified in paragraph (a) or paragraph (b), the court, on hearing the appeal, shall have regard to any guidance given to the local housing authority under section 604A.”

(3) In subsection (3) of that section, paragraph (b) and the word “and” immediately preceding it shall be omitted.

(4) After that subsection there shall be inserted the following subsection—

“(3A) Where an appeal is allowed against a closing or demolition order and the reason or one of the reasons for allowing the appeal is that specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (2A), the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgement a finding to that effect.”

(5) Subsections (4) and (5) of that section shall cease to have effect.

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- 18 (1) In section 270 (demolition orders: recovery of possession of building to be demolished), in subsection (1)—
- (a) after the word “operative” there shall be inserted “ with respect to any premises ”;
 - (b) for the words from “the occupier” to “relates” there shall be substituted “ any occupier of the premises or any part of the premises ”;and
 - (c) in paragraphs (b) and (c) for the word “building” there shall be substituted “ premises ”.
- (2) In subsections (2), (3), (4) and (5) of that section—
- (a) for the words “the building”, in each place where they occur, there shall be substituted “ the premises ”;
 - (b) for the word “it”, in each place where it occurs, there shall be substituted “ them ”; and
 - (c) for the words “a building”, in each place where they occur, there shall be substituted “ any premises ”.
- 19 In section 273 (demolition orders: cleansing before demolition), in subsection (4) for the word “house” there shall be substituted “ premises ”.
- 20 (1) In section 274 (demolition orders: power to permit reconstruction of condemned house), in subsection (1) for the word “house”, in each place where it occurs, there shall be substituted “ premises ”.
- (2) In subsection (2) of that section—
- (a) for the word “houses” there shall be substituted “ dwelling-houses or houses in multiple occupation ”;
 - (b) for the word “house” there shall be substituted “ premises ”; and
 - (c) for the word “it” there shall be substituted “ them ”.
- (3) In subsection (4) of that subsection—
- (a) for the words “a house” there shall be substituted “ any premises ”;
 - (b) for the word “it” there shall be substituted “ them ”; and
 - (c) for the words “the house” there shall be substituted “ the premises or part of the premises ”.
- 21 (1) In section 275 (demolition orders: substitution of closing order to permit use otherwise than for human habitation), in subsection (1)—
- (a) for the words “a house” there shall be substituted “ any premises ”; and
 - (b) for the words “the house”, in each place where they occur, there shall be substituted “ the premises ”.
- (2) In subsection (2) of that section, for the words following “on” there shall be substituted “ every person on whom they would be required by section 268 to serve a copy of a closing order made under section 264 ”.
- 22 In section 278 (closing orders: determination of order on premises being rendered fit), in subsection (1) for the words “premises”, in the first place where they occur, there shall be substituted “ dwelling-house, house in multiple occupation or, in the case of a building containing flats, the flats concerned ”.
- 23 (1) In section 279 (closing orders: substitution of demolition order), in subsection (1) for the words “subsection (2)” there shall be substituted “ subsections (2) and (2A) ”.

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- (2) In subsection (2) of that section the words “section 266 (parts of buildings and underground rooms)” shall be omitted.
- (3) After that subsection there shall be inserted the following subsection—
- “(2A) The power conferred by subsection (1) is not exercisable in relation to a closing order made under section 264(1) where the dwelling-house concerned is a flat or, as the case may be, where the house in multiple occupation is a flat in multiple occupation.”
- 24 Sections 280, 281 and 282 (which relate to the closing etc. of underground rooms) shall cease to have effect.
- 25 (1) In section 289 (declaration of clearance area), in subsection (2)—
- (a) at the beginning there shall be inserted the words “Subject to subsections (2B) to (2F), (4) and (5B)”;
 - (b) in paragraph (a) for the words “houses in the area” there shall be substituted “buildings in the area which are dwelling-houses or houses in multiple occupation or contain one or more flats (in this section referred to as “residential buildings”)”; and
 - (c) in the words following paragraph (b) after the word “and” there shall be inserted “in accordance with subsection 604A ” and for the words “method of dealing with the conditions in the area” there shall be substituted “course of action ”.
- (2) After that subsection there shall be inserted the following subsections—
- “(2A) A residential building containing one or more flats shall be treated for the purposes of this section as unfit for human habitation if some or all of the flats within it are unfit for human habitation.
- (2B) Before declaring an area to be a clearance area, the authority shall—
- (a) serve notice of their intention to include a building in the clearance area on every person who has an interest in the building (whether as freeholder, lessee or mortgagee) and also, in the case of a residential building, on every person who has such an interest in any flat in the building; and
 - (b) take reasonable steps to inform any occupiers of a residential building who do not have such an interest in the building or a flat in the building as is referred to in paragraph (a) of their intention to include the building in the clearance area; and
 - (c) publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) notice of their intention to declare the area to be a clearance area.
- (2C) A notice served under paragraph (a) of subsection (2B) shall invite representations from the person on whom the notice was served within such reasonable period, being not less than twenty-eight days after the date on which the notice is served, as may be specified in the notice.
- (2D) The authority shall, by the steps taken in relation to occupiers of a residential building as mentioned in paragraph (b) of subsection (2B), invite representations from those occupiers within such reasonable period, expiring

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not less than twenty-eight days after the date on which the steps are taken, as may be specified by the authority.

(2E) A notice published in accordance with paragraph (c) of subsection (2B) shall invite representations from any interested persons within such reasonable period, being not less than twenty-eight days after the date on which the notice is published, as may be specified in the notice.

(2F) The authority shall consider all representations made under subsections (2C), (2D) and (2E) and, in the light of the representations, shall take whichever of the following decisions they think appropriate, that is to say—

- (a) they may decide to declare the area to be a clearance area; or
- (b) they may decide to declare the area to be a clearance area but exclude such residential buildings which are unfit for human habitation as they think fit; or
- (c) they may decide not to declare the area to be a clearance area.”

(3) In subsection (3) of that section,—

(a) for the words “If the authority are so satisfied” there shall be substituted the words “ Subject to subsection (5B), where the authority decide to declare an area to be a clearance area in accordance with paragraph(a) or paragraph (b) of subsection (2F) ”; and

(b) in paragraph (a), for the words from “any building” onwards there shall be substituted—

“(i) any residential building which is not unfit for human habitation or dangerous or injurious to health;

(ii) any other building which is not dangerous or injurious to health; and

(iii) any residential buildings which, by virtue of subsection (2F)(b), they have decided to exclude from the area; and”

(4) After subsection (5) there shall be inserted the following subsections—

“(5A) Where a residential building which is unfit for human habitation is not included within a clearance area, whether by virtue of paragraph (b) or paragraph (c) of subsection (2F), the authority shall forthwith, in accordance with section 604A (disregarding guidance under that section in respect of this section), take action in respect of the building (and any flat contained within it) under whichever of sections 189, 264 and 265 it considers to be the most satisfactory course of action.

(5B) Subject to section 578A, a clearance area may not include any parcel of land which is not contiguous with another parcel of land within the area; and, where the effect of subsection (3) would otherwise be that a clearance area would comprise two or more separate and distinct areas, paragraph (b) of that subsection shall have effect as if for the words “pass a resolution declaring the area so defined” there were substituted “ if the effect of paragraph (a) would otherwise be that the area would comprise two or more separate and distinct areas, pass a separate resolution in respect of each of those areas declaring each of them ”.”

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- 26 In section 291 (method of dealing with land acquired for clearance), in subsection (3) the words “Schedule 11 (rehabilitation orders)” shall be omitted.
- 27 (1) In section 294 (extinguishment of public rights of way over land acquired), at the end of subsection (1) there shall be added the words “ as from such date as the Secretary of State in approving the order may direct ”.
- (2) In subsection (2) of that section for the words from “they may make” onwards there shall be substituted “ an order made by the authority in advance of the purchase and approved by the Secretary of State (whether before or after the purchase) shall extinguish that right as from such date as the Secretary of State in approving the order may direct ”.
- (3) In subsection (3) of that section—
- (a) for the word “six” there shall be substituted “ four ”; and
 - (b) after the word “publication” there shall be inserted “ then, subject to subsection (4) ”.
- (4) After that subsection there shall be inserted the following subsection—
- “(4) The Secretary of State may dispense with such an inquiry as is referred to in subsection (3) if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.”
- 28 Section 299 and Schedule 11 (rehabilitation orders in respect of houses in clearance areas) shall cease to have effect.
- 29 (1) In section 300 (purchase of houses liable to be demolished or closed), in subsection (1)—
- (a) after the word “under” there shall be inserted “ section 264 or ”;
 - (b) for the word “house”, in the first place where it occurs, there shall be substituted “ dwelling-house (not being a flat), a house in multiple occupation (not being a flat in multiple occupation) or the whole of a building ”; and
 - (c) for the word “house”, in the second place where it occurs, there shall be substituted “ dwelling-house, house in multiple occupation or, as the case may be, building ”.
- (2) In subsection (2) of that section—
- (a) for the words “a house” there shall be substituted “ any premises ”; and
 - (b) in paragraph (b) for “269” there shall be substituted “ 269(1), (2), (3) and (6) ”.
- (3) In subsection (3) of that section for the word “house” there shall be substituted “ dwelling-house, house in multiple occupation or building ”.
- 30 (1) In section 301 (retention of houses acquired for clearance), in subsection (1) for the word “houses”, in each place where it occurs, there shall be substituted “ residential buildings ”.
- (2) In subsection (2) of that section for the word “house”, in each place where it occurs, there shall be substituted “ residential building ”.
- (3) In subsection (3) of that section for the word “houses”, in each place where it occurs, there shall be substituted “ residential buildings ”.
- (4) After that subsection there shall be inserted the following subsection—

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- “(4) In this section and section 302 “residential building” has the same meaning as it has in section 289.”
- 31 In section 302 (management and repair of house acquired under s. 300 or retained under s. 301)—
- (a) for the word “house”, in each place where it occurs except in paragraph (c), there shall be substituted “ residential building ”; and
 - (b) in paragraph (c) for the word “house” there shall be substituted “ residential building or any flat in the building ”.
- 32 (1) In section 304 (closing order to be in respect of listed building), in subsection (1)—
- (a) for the words from “(unfit” to “cost)” there shall be substituted “ (power to make demolition order) ”; and
 - (b) for the words “that section” there shall be substituted “ section 264 ”.
- (2) In subsection (2) of that section—
- (a) for the word “house”, in each place where it occurs, there shall be substituted “ dwelling-house, house in multiple occupation or building ”;and
 - (b) for the words “section 265” there shall be substituted “ section 264 ”.
- (3) In subsection (3) of that section for the word “house”, in each place where it occurs, there shall be substituted “ dwelling-house, house in multiple occupation or building ”.
- 33 (1) In section 305 (building becoming listed when subject to compulsory purchase for clearance), in subsection (5)—
- (a) for the word “building”, in the first place where it occurs, there shall be substituted “ residential building ”; and
 - (b) for the words from “take whichever” onwards there shall be substituted the words “ in accordance with section 604A (disregarding guidance under that section in respect of sections 265 and 289), take action under whichever of sections 189 and 264 it considers to be the most satisfactory course of action. ”
- (2) In subsection (6) of that section for the word “house”, in each place where it occurs, there shall be substituted “ residential building ”.
- (3) After subsection (7) of that section there shall be inserted the following subsection—
- “(8) In this section “residential building” has the same meaning as in section 289; and subsection (2A) of that section shall apply in determining whether a residential building containing one or more flats is unfit for human habitation for the purposes of subsection (4) as it applies for the purposes of that section.”
- 34 In section 306 (building becoming listed when acquired by agreement for clearance), in subsection (2), in paragraph (b) for the word “house” there shall be substituted “ residential building (within the meaning of section 289) ”.
- 35 In section 309 (recovery of possession of premises for purposes of approved re-development), in subsection (2) for the word “house”, in each place where it occurs, there shall be substituted “ dwelling-house ”.
- 36 (1) In section 310 (certificate of fitness resulting from owner’s improvements or alterations), in subsection (1)—

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- (a) for the word “house”, in the first place where it occurs, there shall be substituted “dwelling-house, house in multiple occupation or building containing one or more flats”; and
- (b) for the word “house”, in the second place where it occurs, there shall be substituted “dwelling-house, the house or the flat or flats in the building”.
- (2) In subsection (3) of that section for the words “house is” there shall be substituted “dwelling-house or house is or, as the case may be, the flat or flats in the building is or are”.
- (3) In subsection (4) of that section for the word “house”, in each place where it occurs, there shall be substituted “dwelling-house, house in multiple occupation or building”.
- 37 In section 315 (power of court to order occupier or owner to permit things to be done), in subsection (1)—
- (a) in paragraph (a) the words “or person having control” shall be omitted; and
- (b) in paragraph (b) for the words “owner or person having control” there shall be substituted “or owner”.
- 38 In section 318 (power of court to authorise execution of works on unfit premises or for improvement), in subsection (1) for the word “houses” there shall be substituted “dwelling-houses or houses in multiple occupation or both”.
- 39 (1) In section 319 (powers of entry), in subsection (1) for the words “24 hours” there shall be substituted “seven days”.
- (2) At the end of subsection (2) of that section there shall be added the words “and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf”.
- 40 (1) In section 320 (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “intentionally”.
- (2) In subsection (2) of that section for the words “level 2” there shall be substituted “level 3”.
- 41 Section 321 (repair at reasonable expense) shall cease to have effect.
- 42 In section 322 (minor definitions)—
- (a) for the definition of “house” there shall be substituted—
- ““dwelling-house” and “flat”, except in the expression “flat in multiple occupation”, shall be construed in accordance with subsection (2) and “the building”, in relation to a flat, means the building containing the flat;
- “house in multiple occupation” and “flat in multiple occupation” have the same meaning as in Part XI”
- (b) the definition of “person having control” shall be omitted; and
- (c) at the end there shall be added—
- ““premises”, in relation to a demolition or closing order, means the dwelling-house, house in multiple occupation, building or part of a building in respect of which the closing order or, as the case may be, demolition order is made.

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- (2) For the purposes of this Part, “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.
- (3) Except where the context otherwise requires, any reference in this Part (other than this section) to a flat is a reference to a dwelling-house which is a flat or to a flat in multiple occupation.”

43 In section 323 (index of defined expressions: Part IX)—

- (a) the entries beginning “the full standard”, “general improvement area”, “house”, “land liable to be cleared”, “person having control”, “slum clearance functions”, “slum clearance subsidy” and “year” shall be omitted
- (b) in the entries beginning “fit (or unfit) for human habitation” and “unfit (or fit) for human habitation” for the words in the second column there shall be substituted “ section 604 ”; and
- (c) at the appropriate places in alphabetical order there shall be inserted the following entries—

“dwelling-house	sections 266 and 322
flat	section 322
house in multiple occupation	section 322
premises	section 322”

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