



# Housing Grants, Construction and Regeneration Act 1996

## 1996 CHAPTER 53

### PART I

#### GRANTS, &C. FOR RENEWAL OF PRIVATE SECTOR HOUSING

#### CHAPTER IV

#### DEFERRED ACTION NOTICES, &C.

#### *Deferred action notices*

#### **81 Deferred action notices.**

- (1) If the local housing authority are satisfied that a dwelling-house or house in multiple occupation is unfit for human habitation, but are satisfied that serving a deferred action notice is the most satisfactory course of action, they shall serve such a notice.
- (2) A deferred action notice is a notice—
  - (a) stating that the premises are unfit for human habitation,
  - (b) specifying the works which, in the opinion of the authority, are required to make the premises fit for human habitation, and
  - (c) stating the other courses of action which are available to the authority if the premises remain unfit for human habitation.
- (3) The notice becomes operative, if no appeal is brought, on the expiry of 21 days from the date of the service of the notice and is final and conclusive as to matters which could have been raised on an appeal.
- (4) A deferred action notice which has become operative is a local land charge so long as it remains operative.

*Status: Point in time view as at 01/04/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Housing Grants, Construction and Regeneration Act 1996, Chapter IV. (See end of Document for details)*

- (5) The fact that a deferred action notice has been served does not prevent the local housing authority from taking any other course of action in relation to the premises at any time.

## **82 Service of deferred action notices.**

- (1) The local housing authority shall serve a deferred action notice—
- (a) in the case of a notice relating to a dwelling-house, on the person having control of the dwelling-house as defined in section 207 of the <sup>M1</sup>Housing Act 1985;
  - (b) in the case of a notice relating to a house in multiple occupation, on the person having control of the house as defined in section 398 of that Act.
- (2) Where the authority are satisfied that a dwelling-house which is a flat, or a flat in multiple occupation, is unfit for human habitation by virtue of section 604(2) of the Housing Act 1985, they shall also serve the notice on the person having control (as defined in section 207 of that Act) of the building or part of the building in question.
- (3) In the case of a house in multiple occupation, the authority may serve the notice on the person managing the house instead of the person having control of the house.
- (4) Where the authority serve a notice under subsection (1), (2) or (3)—
- (a) they shall also serve a copy of the notice on any other person having an interest in the premises concerned, whether as freeholder, mortgagee or lessee (within the meaning of Part VI of the Housing Act 1985), and
  - (b) they may serve a copy of the notice on any person having a licence to occupy the premises.
- (5) Section 617 of the Housing Act 1985 (service of notices) applies for the purpose of this section as it applies for the purpose of that Act.

### **Marginal Citations**

**M1** 1985 c. 68.

## **83 Appeals against deferred action notices.**

- (1) A person aggrieved by a deferred action notice may within 21 days after the service of the notice appeal to the county court.
- (2) Without prejudice to the generality of subsection (1), it is a ground of appeal that serving a notice under section 189 of the Housing Act 1985, or making a closing order under section 264 of that Act or a demolition order under section 265 of that Act, is a more satisfactory course of action.
- (3) Where the grounds on which an appeal is brought are or include that specified in subsection (2), the court, on the hearing of the appeal, shall have regard to any guidance given to the local housing authority under section 604A of the <sup>M2</sup>Housing Act 1985 or section 85 of this Act.
- (4) On an appeal the court may make such order either confirming, quashing or varying the notice as it thinks fit.

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- (5) Where the appeal is allowed and the reason or one of the reasons for allowing the appeal is that serving a notice under section 189 of that Act or making a closing order under section 264 of that Act or a demolition order under section 265 of that Act is a more satisfactory course of action, the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgment a finding to that effect.
- (6) If an appeal is brought, the deferred action notice does not become operative until—
- (a) a decision on the appeal confirming the notice (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the notice (with or without variation);
- and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

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

C1 S. 83(2) amended (17.12.1996) by S.I. 1996/2885, art. 4(1)

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**Marginal Citations**

M2 1985 c. 68.

## 84 Review of deferred action notices.

- (1) The local housing authority may at any time review any deferred action notice served by them, and they shall do so not later than two years after the notice becomes operative and at intervals of not more than two years thereafter.

The Secretary of State may by order amend this subsection so as to specify such other period or periods as he considers appropriate.

- (2) The authority shall for the purposes of any such review inspect the premises concerned.

For this purpose sections 197 (powers of entry) and 198 (penalty for obstruction) of the Housing Act 1985 apply as they apply for the purposes of Part VI of that Act.

- (3) If the authority are satisfied that the deferred action notice remains the most satisfactory course of action, they shall renew the notice and serve notice of their decision.
- (4) The provisions of section 82 (service of deferred action notice) and section 83(1) to (5) (appeals against deferred action notices) apply in relation to the authority's decision to renew a deferred action notice as in relation to the original notice.
- (5) If an appeal is brought against the decision to renew a deferred action notice, the notice remains operative until any decision on the appeal, or any further appeal, quashing or varying the notice.
- (6) If the authority take action in relation to the premises under any of the provisions listed in section 604A(1) of the Housing Act 1985, the deferred action notice shall cease to be operative on the relevant notice, order or declaration becoming operative.

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## 85 Guidance by Secretary of State.

- (1) In deciding for the purposes of section 81 (deferred action notices) or section 84 (review of deferred action notices) what is the most satisfactory course of action in relation to any premises, the local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The provisions of section 604A(2) to (4) of the <sup>M3</sup>Housing Act 1985 (supplementary provisions as to guidance) apply in relation to such guidance.

### Commencement Information

- II** S. 85 wholly in force; s. 85 not in force at Royal Assent see s. 150; s. 85 in force for certain purposes at 11.9.1996 by S.I. 1996/2352, art. 2(2); s. 85 in force insofar as not already in force at 17.12.1997 by S.I. 1997/2842, art. 3

### Marginal Citations

- M3** 1985 c. 68.

### *Power to improve enforcement procedures*

## 86 Unfitness for human habitation &c.: power to improve enforcement procedures.

- (1) The Secretary of State may by order provide that a local housing authority shall act as specified in the order before taking action of any of the following kinds—
  - (a) serving a deferred action notice under section 81 or renewing such a notice under section 84;
  - (b) serving a notice under section 189 of the Housing Act 1985 (repair notice in respect of house which unfit for human habitation);
  - (c) serving a notice under section 190 of that Act (repair notice in respect of house in state of disrepair but not unfit for human habitation);
  - (d) making a closing order under section 264 of that Act;
  - (e) making a demolition order under section 265 of that Act.
- (2) An order under this section may provide that the authority—
  - (a) shall as soon as practicable give to the person against whom action is intended a written notice which satisfies the requirements of subsection (3); and
  - (b) shall not take any action against him until after the end of such period beginning with the giving of the notice as may be determined by or under the order.
- (3) A notice satisfies the requirements of this subsection if it—
  - (a) states the nature of the remedial action which in the authority’s opinion should be taken, and explains why and within what period;
  - (b) explains the grounds on which it appears to the authority that action might be taken as mentioned in subsection (1); and
  - (c) states the nature of the action which could be taken and states whether there is a right to make representations before, or a right of appeal against, the taking of such action.

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- (4) An order under this section may also provide that, before the authority takes any action against any person, they—
  - (a) shall give to that person a written notice stating—
    - (i) that they are considering taking the action and the reasons why they are considering it; and
    - (ii) that the person may, within a period specified in the notice, make written representations to them or, if the person so requests, make oral representations to them in the presence of a person determined by or under the order; and
  - (b) shall consider any representations which are duly made and not withdrawn.
- (5) An order under this section may in particular—
  - (a) make provision as to the consequences of any failure to comply with a provision made by the order;
  - (b) contain provisions (including provisions modifying enactments relating to the periods within which proceedings must be brought) which are consequential upon, or supplemental or incidental to, the provisions made by the order.
- (6) Nothing in any order made under this section shall—
  - (a) preclude a local housing authority from taking immediate action against any person, or from requiring any person to take immediate remedial action to avoid action being taken against him, in any case where it appears to them to be necessary to take such action or impose such a requirement; or
  - (b) require such an authority to disclose any information the disclosure of which would be contrary to the public interest.

*Power to charge for enforcement action*

**87 Unfitness for human habitation, &c.: power to charge for enforcement action.**

- (1) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in taking action of any of the following kinds—
  - (a) serving a deferred action notice under section 81 or deciding to renew such a notice under section 84;
  - (b) serving a notice under section 189 of the <sup>M4</sup>Housing Act 1985 (repair notice in respect of house which unfit for human habitation);
  - (c) serving a notice under section 190 of that Act (repair notice in respect of house in state of disrepair but not unfit for human habitation);
  - (d) making a closing order under section 264 of that Act;
  - (e) making a demolition order under section 265 of that Act.
- (2) The expenses are, in the case of the service of a notice under section 81 of this Act or section 189 or 190 of the Housing Act 1985, the expenses incurred in—
  - (a) determining whether to serve the notice,
  - (b) identifying the works to be specified in the notice, and
  - (c) serving the notice.
- (3) The expenses are, in the case of a decision to renew a notice under section 84 of this Act, the expenses incurred in—

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- (a) deciding whether to renew the notice, and
  - (b) serving notice of the authority's decision.
- (4) The expenses are, in the case of a closing order under section 264 of the Housing Act 1985 or a demolition order under section 265 of that Act, the expenses incurred in—
- (a) determining whether to make the order, and
  - (b) serving notice of the order.
- (5) The amount of the charge shall not exceed such amount as is specified by order of the Secretary of State.
- (6) Where a court allows an appeal against the underlying notice, decision or order mentioned in subsection (1), it may make such order as it thinks fit reducing, quashing or requiring the repayment of any charge under this section made in respect of the notice, decision or order.

#### Commencement Information

**I2** S. 87 wholly in force; s. 87 not in force at Royal Assent see s. 150; s. 87 in force for certain purposes at 11.9.1996 by S.I. 1996/2352, art. 2(2); s. 87 in force insofar as not already in force at 17.12.1996 by S.I. 1996/2842, art. 3

#### Marginal Citations

**M4** 1985 c. 68.

## 88 Recovery of charge for enforcement action.

- (1) The following provisions have effect with respect to the recovery of a charge under section 87.
- (2) The charge may be recovered by the authority concerned from—
- (a) in the case of a notice under section 81 of this Act, or section 189 or 190 of the <sup>M5</sup>Housing Act 1985, any person on whom the notice is served;
  - (b) in the case of a renewal of a notice under section 84 of this Act, any person on whom notice of the decision to renew the notice is served;
  - (c) in the case of an order under section 264 or 265 of the Housing Act 1985, any person on whom notice of the order is served as an owner of the premises.
- (3) A demand for payment of the charge shall be served on the person from whom the authority seeks to recover it.
- (4) The demand becomes operative, if no appeal is brought against the underlying notice, decision or order, on the expiry of the period of 21 days from the service of the demand.
- (5) The sum recoverable by the authority is, until recovered, a charge on the premises concerned; and—
- (a) the charge takes effect when the demand becomes operative,
  - (b) the authority have for the purpose of enforcing the charge the same powers and remedies under the <sup>M6</sup>Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver, and

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- (c) the power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.

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**Marginal Citations**

**M5** 1985 c. 68.

**M6** 1925 c. 20.

*Supplementary provisions*

**89 Power to prescribe forms.**

The Secretary of State may by regulations prescribe the form of and the particulars to be contained in—

- (a) a deferred action notice, or a notice of an authority’s decision to renew a deferred action notice, or
- (b) a demand for payment of any charge under section 87 (power to charge for enforcement action).

**90 Minor definitions: Chapter IV.**

In this Chapter—

- (a) “dwelling-house”, “flat” and references to the owner of a dwelling-house or flat, have the same meaning as in Part VI of the Housing Act 1985 (repair notices); and
- (b) “house in multiple occupation”, “flat in multiple occupation” and references to the owner of or person managing such a house or flat, have the same meaning as in Part XI of that Act.

**91 Index of defined expressions: Chapter IV.**

In this Chapter the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions indicated—

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deferred action notice	section 81
dwelling-house	section 90(a)
flat	section 90(a)
flat in multiple occupation	section 90(b)
house in multiple occupation	section 90(b)
local housing authority	section 101
owner	
–in relation to a dwelling-house or flat	section 90(a)
–in relation to a house or flat in multiple occupation	section 90(b)

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person managing (a house or flat in multiple occupation)	section 90(b)
prescribed	section 101
unfit for human habitation	section 97

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