
Status: Point in time view as at 15/01/2012.

Changes to legislation: Housing Act 2004, Cross Heading: Enforcement: improvement notices and prohibition orders is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Housing Act 2004

2004 CHAPTER 34

PART 1

HOUSING CONDITIONS

CHAPTER 2

IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

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
 - (b) is preventing a representative of the local housing authority from taking that action in relation to the premises,

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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.

Commencement Information

- II** [S. 35](#) wholly in force at 16.6.2006; [s. 35](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 35](#) in force for E. at 6.4.2006 by [S. I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 35](#) in force for W. at 16.6.2006 by [S. I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

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—

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- (a) in the case of an improvement notice, any remedial action which is required to be taken by the notice;
 - (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).

Commencement Information

I2 S. 36 wholly in force at 16.6.2006; s. 36 not in force at Royal Assent see s. 270(4)(5); s. 36 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(a) (with Sch.); s. 36 in force for W. at 16.6.2006 by S. I. 2006/1535, art. 2(a) (with Sch.)

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