



Public Health Act 1961

1961 CHAPTER 64

PART II

SANITATION AND BUILDINGS

Buildings and structures

26 Defective premises

- (1) If it appears to a local authority that—
 - (a) 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
 - (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by sections ninety-three to ninety-five of the Public Health Act, 1936,

the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section ninety-three (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 which they intend to remedy.
- (2) Subject to the next following subsection, the local authority may, after the expiration of nine days after service of a notice under the foregoing subsection, execute such works as may be necessary to remedy the defective state and may 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) of this section, 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 either—
 - (a) 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 this section 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 sections ninety-three to ninety-six of the Public Health Act, 1936, and
 - (b) if the defendant proves that he served a counter-notice under subsection (3) of this section, 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—
- (i) that the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
 - (ii) that 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 the provisions of the last foregoing subsection, in proceedings to recover expenses under this section the court may inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:
- Provided that the court shall not order the expenses or any part of them to be borne by any 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 this section, 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 twenty-nine of the Town and Country Planning Act, 1947.
- (7) The power conferred on a local authority by subsection (1) of this section may be exercised notwithstanding that the local authority might instead have proceeded under section nine of the Housing Act, 1957.