

SCHEDULES

SCHEDULE 5

Section 61.

Part 4 notices: further provision

Part 1

Service and date of effect of notices

Service of notices

- 1.—(1) If a council issues a Part 4 notice, the council must serve the notice on—
 - (a) any person appearing to the council to be the owner of the HMO, and
 - (b) any person appearing to the council to be a managing agent of the HMO.
- (2) The council must—
 - (a) in the case of an emergency hazard notice, serve the notice on the occupants of the HMO, and
 - (b) in any other case, send a copy of the notice to the occupants of the HMO.
- (3) The council may send a copy of the notice to—
 - (a) anyone else with a relevant interest in the HMO (see sub-paragraph (5)),
 - (b) the statutory authorities, and
 - (c) such other persons as the council considers appropriate.
- (4) An emergency hazard notice must be served under sub-paragraph (1) and (2) (a) on the day on which it is issued or, if that is not possible, as soon as possible thereafter.
- (5) In sub-paragraph (3)(a), a “relevant interest” is—
 - (a) a freehold or leasehold estate;
 - (b) a mortgage, charge or lien.

Operation of notices

- 2.—(1) A Part 4 notice becomes operative at the end of the period of 28 days beginning with the date of service of the notice; but this is subject to subparagraphs (2) and (3).

- (2) A notice (other than an emergency hazard notice) becomes operative—
- (a) if the notice is suspended under paragraph 4, on the date when the suspension ends;
 - (b) if an appeal is made against the notice in accordance with section 67(4), on the date when the appeal is finally determined;
 - (c) if the notice is suspended and such an appeal is made against it, on the later of those two dates.
- (3) An emergency hazard notice becomes operative on the day on which it is served under paragraph 1(2)(a).
3. If no appeal is made against a Part 4 notice, the notice is final and conclusive as to any matters which could have been raised on such an appeal.

Part 2

Suspension of effect of notices

- 4.—(1) A Part 4 notice (other than an emergency hazard notice) may provide for the operation of the notice to be suspended until a time, or the occurrence of an event, specified in the notice.
- (2) The time specified under sub-paragraph (1) may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any accommodation.
- (3) The council may, for the purposes of this paragraph, accept from a person on whom the notice is served a written undertaking to take, or to refrain from taking, any action specified in the undertaking.
- (4) If the council does so, the event specified under sub-paragraph (1) may, in particular, be a notified breach of that undertaking.
- (5) In sub-paragraph (4) a “notified breach” is an act or omission by the person—
- (a) which the council considers to be a breach of the undertaking, and
 - (b) which is notified to the person in accordance with the terms of the undertaking.
- 5.—(1) The council may at any time review a Part 4 notice whose operation is suspended.
- (2) The council must review such a notice—
- (a) not later than one year after the date on which the notice was served, and
 - (b) at subsequent intervals of not more than one year.

(3) Copies of the council's decision on a review under this paragraph must be served on every person who appears to the council to be the owner, or a managing agent, of the HMO.

Part 3

Variation and revocation

Variation

6.—(1) The council may vary a Part 4 notice in accordance with this paragraph.

(2) A notice may be varied—

- (a) on an application by any person on whom the notice was required to be served under paragraph 1(1), or
- (b) on the council's own initiative.

(3) The date specified (as the date by which work must be completed) in—

- (a) a statement of remedial work under section 53, or
- (b) a works requirement in a hazard notice,

may not be varied under this paragraph (but see paragraph 3 of Schedule 3).

(4) If a council varies a Part 4 notice, the council must serve, on each person on whom the notice was required to be served under paragraph 1(1), notice of the variation, accompanied by a copy of the notice as varied.

(5) If a person applies for a variation of a Part 4 notice but the council decides to refuse it, the council must serve, on each person on whom the notice was required to be served under paragraph 1(1), notice of that refusal.

(6) If a notice is varied with the agreement of every person on whom the notice was required to be served under paragraph 1(1), the variation has effect from the date on which it is made.

(7) Otherwise a variation does not have effect until—

- (a) the last date on which the decision to vary the notice may be appealed in accordance with section 67(4), or
- (b) where such an appeal is made, the date on which the appeal is finally determined.

Revocation

7.—(1) The council may, or must, revoke a Part 4 notice in accordance with this paragraph.

(2) A notice may be revoked—

- (a) on an application by any person on whom the notice was required to be served under paragraph 1(1), or
 - (b) on the council's own initiative.
- (3) A suitability notice must be revoked if the work specified in a statement of remedial work under section 53 is carried out by the date specified in that statement.
- (4) A hazard notice must be revoked if the council is satisfied that the hazard in respect of which the notice was made does not then exist in the HMO specified in the notice.
- (5) Where a hazard notice relates to a number of hazards—
- (a) sub-paragraph (4) is to be read as applying separately in relation to each of those hazards, and
 - (b) if, as a result, the council is required to revoke only part of the notice, it may vary the remainder as it considers appropriate.
- (6) The council must serve on each person on whom the notice was required to be served under paragraph 1(1)—
- (a) notice of any revocation under this paragraph;
 - (b) notice of any variation under sub-paragraph (5), accompanied by a copy of the notice as varied;
 - (c) if a person applies for a revocation but the council decides to refuse it, notice of that refusal.
- (7) A revocation under this paragraph has effect from the date when it is made.