Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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 1

ENFORCEMENT OF HOUSING STANDARDS: GENERAL

New system for assessing housing conditions

VALID FROM 06/04/2006

1 New system for assessing housing conditions and enforcing housing standards

(1) This Part provides—

(a) for a new system of assessing the condition of residential premises, and

(b) for that system to be used in the enforcement of housing standards in relation to such premises.

(2) The new system—

(a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and

(b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).

(3) The kinds of enforcement action which are to involve the use of the new system are—

(a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),

(b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and

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(c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).

(4) In this Part "residential premises" means—

(a) a dwelling;

(b) an HMO;

(c) unoccupied HMO accommodation;

(d) any common parts of a building containing one or more flats.

(5) In this Part—

"building containing one or more flats" does not include an HMO;

"common parts", in relation to a building containing one or more flats, includes—

(a) the structure and exterior of the building, and

(b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;

"external common parts", in relation to a building containing one or more flats, means common parts of the building which are outside it;

"flat" means a separate set of premises (whether or not on the same floor)—

(a) which forms part of a building,

(b) which is constructed or adapted for use for the purposes of a dwelling, and

(c) either the whole or a material part of which lies above or below some other part of the building;

"HMO" means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);

"unoccupied HMO accommodation" means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.

(6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).

(7) The following indicates how this Part applies to flats—

(a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and

(b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).

(8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

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Commencement Information

I1 S. 1 wholly in force at 16.6.2006; s. 1 not in force at Royal Assent see s. 270(4)(5); s. 1 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 1 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

2 Meaning of "category 1 hazard" and "category 2 hazard"

(1) In this Act—

"category 1 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

"category 2 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and

"hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)—

"prescribed" means prescribed by regulations made by the appropriate national authority (see section 261(1)); and

"prescribed band" means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section—

"building" includes part of a building;

"harm" includes temporary harm.

(5) In this Act "health" includes mental health.

Procedure for assessing housing conditions

VALID FROM 06/04/2006

3 Local housing authorities to review housing conditions in their districts

(1) A local housing authority must keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under any of the provisions mentioned in subsection (2).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) The provisions are—

(a) the following provisions of this Act—

(i) this Part,

(ii) Part 2 (licensing of HMOs),

(iii) Part 3 (selective licensing of other houses), and

(iv) Chapters 1 and 2 of Part 4 (management orders);

(b) Part 9 of the Housing Act 1985 (c. 68) (demolition orders and slum clearance);

(c) Part 7 of the Local Government and Housing Act 1989 (c. 42) (renewal areas); and

(d) article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860).

(3) For the purpose of carrying out their duty under subsection (1) a local housing authority and their officers must—

(a) comply with any directions that may be given by the appropriate national authority, and

(b) keep such records, and supply the appropriate national authority with such information, as that authority may specify.

Commencement Information

I2 S. 3 wholly in force at 16.6.2006; s. 3 not in force at Royal Assent see s. 270(4)(5); s. 3 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 3 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

4 Inspections by local housing authorities to see whether category 1 or 2 hazards exist

(1) If a local housing authority consider—

(a) as a result of any matters of which they have become aware in carrying out their duty under section 3, or

(b) for any other reason,

that it would be appropriate for any residential premises in their district to be inspected with a view to determining whether any category 1 or 2 hazard exists on those premises, the authority must arrange for such an inspection to be carried out.

(2) If an official complaint about the condition of any residential premises in the district of a local housing authority is made to the proper officer of the authority, and the circumstances complained of indicate—

(a) that any category 1 or category 2 hazard may exist on those premises, or

(b) that an area in the district should be dealt with as a clearance area,

the proper officer must inspect the premises or area.

(3) In this section "an official complaint" means a complaint in writing made by—

(a) a justice of the peace having jurisdiction in any part of the district, or

(b) the parish or community council for a parish or community within the district.

(4) An inspection of any premises under subsection (1) or (2)—

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(a) is to be carried out in accordance with regulations made by the appropriate national authority; and

(b) is to extend to so much of the premises as the local housing authority or proper officer (as the case may be) consider appropriate in the circumstances having regard to any applicable provisions of the regulations.

(5) Regulations under subsection (4) may in particular make provision about—

(a) the manner in which, and the extent to which, premises are to be inspected under subsection (1) or (2), and

(b) the manner in which the assessment of hazards is to be carried out.

(6) Where an inspection under subsection (2) has been carried out and the proper officer of a local housing authority is of the opinion—

(a) that a category 1 or 2 hazard exists on any residential premises in the authority's district, or

(b) that an area in their district should be dealt with as a clearance area,

the officer must, without delay, make a report in writing to the authority which sets out his opinion together with the facts of the case.

(7) The authority must consider any report made to them under subsection (6) as soon as possible.

Commencement Information

I3 S. 4 wholly in force at 6.4.2006; s. 4 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 4 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(a)**; s. 4 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.)

Enforcement of housing standards

VALID FROM 06/04/2006

5 Category 1 hazards: general duty to take enforcement action

(1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.

(2) In subsection (1) "the appropriate enforcement action" means whichever of the following courses of action is indicated by subsection (3) or (4)—

(a) serving an improvement notice under section 11;

(b) making a prohibition order under section 20;

(c) serving a hazard awareness notice under section 28;

(d) taking emergency remedial action under section 40;

(e) making an emergency prohibition order under section 43;

(f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);

(g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

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(3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.

(4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.

(5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard—

(a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or

(b) another such course of action, where the first course of action is that mentioned in subsection (2)(g) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.

(6) To determine whether a course of action mentioned in any of paragraphs (a) to (g) of subsection (2) is "available" to the authority in relation to the hazard, see the provision mentioned in that paragraph.

(7) Section 6 applies for the purposes of this section.

Modifications etc. (not altering text)

C1 S. 5 modified by Housing Act 1985 (c. 68), s. 265(1)(2) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), **ss. 46**, 270(4)(5)(a)); S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

C2 S. 5 modified by Housing Act 1985 (c. 68), s. 289(2) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), **ss. 47**, 270(4)(5)(a)); S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); S.I. 2006/1535, **art. 2(a)** (with Sch.)

C3 S. 5 modified by Housing Act 1985 (c. 68), s. 300(1)(a)(2)(a) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 265(1), 270(4)(5)(f), **Sch. 15 para. 20**); S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

Commencement Information

I4 S. 5 wholly in force at 16.6.2006; s. 5 not in force at Royal Assent see s. 270(4)(5); s. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

6 Category 1 hazards: how duty under section 5 operates in certain cases

(1) This section explains the effect of provisions contained in subsection (2) of section 5.

(2) In the case of paragraph (b) or (f) of that subsection, the reference to making an order such as is mentioned in that paragraph is to be read as a reference to making instead a determination under section 300(1) or (2) of the Housing Act 1985 (c. 68) (power to purchase for temporary housing use) in a case where the authority consider the latter course of action to be the better alternative in the circumstances.

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(3) In the case of paragraph (d) of that subsection, the authority may regard the taking of emergency remedial action under section 40 followed by the service of an improvement notice under section 11 as a single course of action.

(4) In the case of paragraph (e) of that subsection, the authority may regard the making of an emergency prohibition order under section 43 followed by the service of a prohibition order under section 20 as a single course of action.

(5) In the case of paragraph (g) of that subsection—

(a) any duty to take the course of action mentioned in that paragraph is subject to the operation of subsections (2B) to (4) and (5B) of section 289 of the Housing Act 1985 (procedural and other restrictions relating to slum clearance declarations); and

(b) that paragraph does not apply in a case where the authority have already declared the area in which the premises concerned are situated to be a clearance area in accordance with section 289, but the premises have been excluded by virtue of section 289(2F)(b).

Commencement Information

I5 S. 6 wholly in force at 16.6.2006; s. 6 not in force at Royal Assent see s. 270(4)(5); s. 6 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 6 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

7 Category 2 hazards: powers to take enforcement action

(1) The provisions mentioned in subsection (2) confer power on a local housing authority to take particular kinds of enforcement action in cases where they consider that a category 2 hazard exists on residential premises.

(2) The provisions are—

(a) section 12 (power to serve an improvement notice),

(b) section 21 (power to make a prohibition order),

(c) section 29 (power to serve a hazard awareness notice),

(d) section 265(3) and (4) of the Housing Act 1985 (power to make a demolition order), and

(e) section 289(2ZB) of that Act (power to make a slum clearance declaration).

(3) The taking by the authority of one of those kinds of enforcement action in relation to a particular category 2 hazard does not prevent them from taking either—

(a) the same kind of action again, or

(b) a different kind of enforcement action,

in relation to the hazard, where they consider that the action taken by them so far has not proved satisfactory.

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Commencement Information

I6 S. 7 wholly in force at 16.6.2006; s. 7 not in force at Royal Assent see s. 270(4)(5); s. 7 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 7 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

8 Reasons for decision to take enforcement action

(1) This section applies where a local housing authority decide to take one of the kinds of enforcement action mentioned in section 5(2) or 7(2) ("the relevant action").

(2) The authority must prepare a statement of the reasons for their decision to take the relevant action.

(3) Those reasons must include the reasons why the authority decided to take the relevant action rather than any other kind (or kinds) of enforcement action available to them under the provisions mentioned in section 5(2) or 7(2).

(4) A copy of the statement prepared under subsection (2) must accompany every notice, copy of a notice, or copy of an order which is served in accordance with—
- (a) Part 1 of Schedule 1 to this Act (service of improvement notices etc.),
- (b) Part 1 of Schedule 2 to this Act (service of copies of prohibition orders etc.), or
- (c) section 268 of the Housing Act 1985 (service of copies of demolition orders),

in or in connection with the taking of the relevant action.

(5) In subsection (4)—
- (a) the reference to Part 1 of Schedule 1 to this Act includes a reference to that Part as applied by section 28(7) or 29(7) (hazard awareness notices) or to section 40(7) (emergency remedial action); and
- (b) the reference to Part 1 of Schedule 2 to this Act includes a reference to that Part as applied by section 43(4) (emergency prohibition orders).

(6) If the relevant action consists of declaring an area to be a clearance area, the statement prepared under subsection (2) must be published—
- (a) as soon as possible after the relevant resolution is passed under section 289 of the Housing Act 1985, and
- (b) in such manner as the authority consider appropriate.

Commencement Information

I7 S. 8 wholly in force at 16.6.2006; s. 8 not in force at Royal Assent see s. 270(4)(5); s. 8 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 8 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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9 Guidance about inspections and enforcement action

(1) The appropriate national authority may give guidance to local housing authorities about exercising—

(a) their functions under this Chapter in relation to the inspection of premises and the assessment of hazards,

(b) their functions under Chapter 2 of this Part in relation to improvement notices, prohibition orders or hazard awareness notices,

(c) their functions under Chapter 3 in relation to emergency remedial action and emergency prohibition orders, or

(d) their functions under Part 9 of the Housing Act 1985 (c. 68) in relation to demolition orders and slum clearance.

(2) A local housing authority must have regard to any guidance for the time being given under this section.

(3) The appropriate national authority may give different guidance for different cases or descriptions of case or different purposes (including different guidance to different descriptions of local housing authority or to local housing authorities in different areas).

(4) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.

(5) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).

(6) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (5), either House resolves that the guidance or alterations be withdrawn.

(7) Subsection (6) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.

(8) In calculating the period of 40 days mentioned in subsection (5), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

Modifications etc. (not altering text)

C4 S. 9 applied by Housing Act 1985 (c. 68), s. 269A (as inserted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 265(1), 270(4)(5)(f), **Sch. 15 para. 15**); S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

VALID FROM 06/04/2006

10 Consultation with fire and rescue authorities in certain cases

(1) This section applies where a local housing authority—

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(a) are satisfied that a prescribed fire hazard exists in an HMO or in any common parts of a building containing one or more flats, and

(b) intend to take in relation to the hazard one of the kinds of enforcement action mentioned in section 5(2) or section 7(2).

(2) Before taking the enforcement action in question, the authority must consult the fire and rescue authority for the area in which the HMO or building is situated.

(3) In the case of any proposed emergency measures, the authority's duty under subsection (2) is a duty to consult that fire and rescue authority so far as it is practicable to do so before taking those measures.

(4) In this section—

"emergency measures" means emergency remedial action under section 40 or an emergency prohibition order under section 43;

"fire and rescue authority" means a fire and rescue authority under the Fire and Rescue Services Act 2004 (c. 21);

"prescribed fire hazard" means a category 1 or 2 hazard which is prescribed as a fire hazard for the purposes of this section by regulations under section 2.

Commencement Information

I8 S. 10 wholly in force at 16.6.2006; s. 10 not in force at Royal Assent see s. 270(4)(5); s. 10 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 10 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

CHAPTER 2

IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

Improvement notices

11 Improvement notices relating to category 1 hazards: duty of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.

(3) The notice may require remedial action to be taken in relation to the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;

(b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) The remedial action required to be taken by the notice —

(a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but

(b) may extend beyond such action.

(6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(7) The operation of an improvement notice under this section may be suspended in accordance with section 14.

(8) In this Part "remedial action", in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

Commencement Information

I9 S. 11 wholly in force at 16.6.2006; s. 11 not in force at Royal Assent see s. 270(4)(5); s. 11 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 11 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

12 Improvement notices relating to category 2 hazards: power of authority to serve notice

(1) If—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve an improvement notice under this section in respect of the hazard.

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 13.

(3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.

(4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.

(6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

Commencement Information

I10 S. 12 wholly in force at 16.6.2006; s. 12 not in force at Royal Assent see s. 270(4)(5); s. 12 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 12 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

13 Contents of improvement notices

(1) An improvement notice under section 11 or 12 must comply with the following provisions of this section.

(2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) whether the notice is served under section 11 or 12,

(b) the nature of the hazard and the residential premises on which it exists,

(c) the deficiency giving rise to the hazard,

(d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,

(e) the date when the remedial action is to be started (see subsection (3)), and

(f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.

(3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.

(4) The notice must contain information about—

(a) the right of appeal against the decision under Part 3 of Schedule 1, and

(b) the period within which an appeal may be made.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(5) In this Part of this Act "specified premises", in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

Commencement Information

I11 S. 13 wholly in force at 16.6.2006; s. 13 not in force at Royal Assent see s. 270(4)(5); s. 13 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 13 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

14 Suspension of improvement notices

(1) An improvement 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 so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.

(3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from the person on whom the notice is served.

(4) In subsection (3) a "notified breach", in relation to such an undertaking, means an act or omission by the person on whom the notice is served—

(a) which the local housing authority consider to be a breach of the undertaking, and

(b) which is notified to that person in accordance with the terms of the undertaking.

(5) If an improvement notice does provide for the operation of the notice to be suspended under this section—

(a) any periods specified in the notice under section 13 are to be fixed by reference to the day when the suspension ends, and

(b) in subsection (3) of that section the reference to the 28th day after that on which the notice is served is to be read as referring to the 21st day after that on which the suspension ends.

Commencement Information

I12 S. 14 wholly in force at 16.6.2006; s. 14 not in force at Royal Assent see s. 270(4)(5); s. 14 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 14 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

15 Operation of improvement notices

(1) This section deals with the time when an improvement notice becomes operative.

(2) The general rule is that an improvement notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under Part 1 of Schedule 1 (which is the period for appealing against the notice under Part 3 of that Schedule).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(3) The general rule is subject to subsection (4) (suspended notices) and subsection (5) (appeals).

(4) If the notice is suspended under section 14, the notice becomes operative at the time when the suspension ends.

This is subject to subsection (5).

(5) If an appeal against the notice is made under Part 3 of Schedule 1, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 19 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends).

(6) If no appeal against an improvement notice is made under that Part of that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.

Commencement Information

I13 S. 15 wholly in force at 16.6.2006; s. 15 not in force at Royal Assent see s. 270(4)(5); s. 15 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 15 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

16 Revocation and variation of improvement notices

(1) The local housing authority must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with.

(2) The local housing authority may revoke an improvement notice if—

(a) in the case of a notice served under section 11, they consider that there are any special circumstances making it appropriate to revoke the notice; or

(b) in the case of a notice served under section 12, they consider that it is appropriate to revoke the notice.

(3) Where an improvement notice relates to a number of hazards—

(a) subsection (1) is to be read as applying separately in relation to each of those hazards, and

(b) if, as a result, the authority are required to revoke only part of the notice, they may vary the remainder as they consider appropriate.

(4) The local housing authority may vary an improvement notice—

(a) with the agreement of the person on whom the notice was served, or

(b) in the case of a notice whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.

(5) A revocation under this section comes into force at the time when it is made.

(6) If it is made with the agreement of the person on whom the improvement notice was served, a variation under this section comes into force at the time when it is made.

(7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 20

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of Schedule 1 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(8) The power to revoke or vary an improvement notice under this section is exercisable by the authority either—

(a) on an application made by the person on whom the improvement notice was served, or

(b) on the authority's own initiative.

Commencement Information

I14 S. 16 wholly in force at 16.6.2006; s. 16 not in force at Royal Assent see s. 270(4)(5); s. 16 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 16 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

17 Review of suspended improvement notices

(1) The local housing authority may at any time review an improvement notice whose operation is suspended.

(2) The local housing authority must review an improvement notice whose operation is suspended not later than one year after the date of service of the notice and at subsequent intervals of not more than one year.

(3) Copies of the authority's decision on a review under this section must be served—

(a) on the person on whom the improvement notice was served, and

(b) on every other person on whom a copy of the notice was required to be served.

Commencement Information

I15 S. 17 wholly in force at 16.6.2006; s. 17 not in force at Royal Assent see s. 270(4)(5); s. 17 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 17 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

Commencement Information

I16 S. 18 wholly in force at 16.6.2006; s. 18 not in force at Royal Assent see s. 270(4)(5); s. 18 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 18 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

19 Change in person liable to comply with improvement notice

(1) This section applies where—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(a) an improvement notice has been served on any person ("the original recipient") in respect of any premises, and

(b) at a later date ("the changeover date") that person ceases to be a person of the relevant category in respect of the premises.

(2) In subsection (1) the reference to a person ceasing to be a "person of the relevant category" is a reference to his ceasing to fall within the description of person (such as, for example, the holder of a licence under Part 2 or 3 or the person managing a dwelling) by reference to which the improvement notice was served on him.

(3) As from the changeover date, the liable person in respect of the premises is to be in the same position as if—

(a) the improvement notice had originally been served on him, and

(b) he had taken all steps relevant for the purposes of this Part which the original recipient had taken.

(4) The effect of subsection (3) is that, in particular, any period for compliance with the notice or for bringing any appeal is unaffected.

(5) But where the original recipient has become subject to any liability arising by virtue of this Part before the changeover date, subsection (3) does not have the effect of—

(a) relieving him of the liability, or

(b) making the new liable person subject to it.

(6) Subsection (3) applies with any necessary modifications where a person to whom it applies (by virtue of any provision of this section) ceases to be the liable person in respect of the premises.

(7) Unless subsection (8) or (9) applies, the person who is at any time the "liable person" in respect of any premises is the person having control of the premises.

(8) If—

(a) the original recipient was served as the person managing the premises, and

(b) there is a new person managing the premises as from the changeover date,

that new person is the "liable person".

(9) If the original recipient was served as an owner of the premises, the "liable person" is the owner's successor in title on the changeover date.

Commencement Information

I17 S. 19 wholly in force at 16.6.2006; s. 19 not in force at Royal Assent see s. 270(4)(5); s. 19 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 19 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Prohibition orders

20 Prohibition orders relating to category 1 hazards: duty of authority to make order

(1) If—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

making a prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsections (3) and (4) and section 22.

(3) The order may prohibit use of the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may prohibit use of the dwelling or HMO;

(b) if those premises are one or more flats, it may prohibit use of the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may prohibit use of the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), prohibit use of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is necessary for such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A prohibition order under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

Commencement Information

I18 S. 20 wholly in force at 16.6.2006; s. 20 not in force at Royal Assent see s. 270(4)(5); s. 20 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 20 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

21 Prohibition orders relating to category 2 hazards: power of authority to make order

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may make a prohibition order under this section in respect of the hazard.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsection (3) and section 22.

(3) Subsections (3) and (4) of section 20 apply to a prohibition order under this section as they apply to one under that section.

(4) A prohibition order under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) A prohibition order under this section may be combined in one document with an order under section 20 where they impose prohibitions on the use of the same premises or on the use of premises in the same building containing one or more flats.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

Commencement Information

I19 S. 21 wholly in force at 16.6.2006; s. 21 not in force at Royal Assent see s. 270(4)(5); s. 21 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 21 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

22 Contents of prohibition orders

(1) A prohibition order under section 20 or 21 must comply with the following provisions of this section.

(2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) whether the order is made under section 20 or 21,

(b) the nature of the hazard concerned and the residential premises on which it exists,

(c) the deficiency giving rise to the hazard,

(d) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4)), and

(e) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25.

(3) The order may impose such prohibition or prohibitions on the use of any premises as—

(a) comply with section 20(3) and (4), and

(b) the local housing authority consider appropriate in view of the hazard or hazards in respect of which the order is made.

(4) Any such prohibition may prohibit use of any specified premises, or of any part of those premises, either—

(a) for all purposes, or

(b) for any particular purpose,

except (in either case) to the extent to which any use of the premises or part is approved by the authority.

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(5) A prohibition imposed by virtue of subsection (4)(b) may, in particular, relate to—
- (a) occupation of the premises or part by more than a particular number of households or persons; or
- (b) occupation of the premises or part by particular descriptions of persons.

(6) The order must also contain information about—
- (a) the right under Part 3 of Schedule 2 to appeal against the order, and
- (b) the period within which an appeal may be made,

and specify the date on which the order is made.

(7) Any approval of the authority for the purposes of subsection (4) must not be unreasonably withheld.

(8) If the authority do refuse to give any such approval, they must notify the person applying for the approval of—
- (a) their decision,
- (b) the reasons for it and the date on which it was made,
- (c) the right to appeal against the decision under subsection (9), and
- (d) the period within which an appeal may be made,

within the period of seven days beginning with the day on which the decision was made.

(9) The person applying for the approval may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified in the notice as the date on which it was made.

(10) In this Part of this Act "specified premises", in relation to a prohibition order, means premises specified in the order, in accordance with subsection (2)(d), as premises in relation to which prohibitions are imposed by the order.

Commencement Information

I20 S. 22 wholly in force at 16.6.2006; s. 22 not in force at Royal Assent see s. 270(4)(5); s. 22 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 22 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

23 Suspension of prohibition orders

(1) A prohibition order may provide for the operation of the order to be suspended until a time, or the occurrence of an event, specified in the order.

(2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.

(3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from a person on whom a copy of the order is served.

(4) In subsection (3) a "notified breach", in relation to such an undertaking, means an act or omission by such a person—
- (a) which the local housing authority consider to be a breach of the undertaking, and

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(b) which is notified to that person in accordance with the terms of the undertaking.

Commencement Information

I21 S. 23 wholly in force at 16.6.2006; s. 23 not in force at Royal Assent see s. 270(4)(5); s. 23 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 23 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

24 Operation of prohibition orders

(1) This section deals with the time when a prohibition order becomes operative.

(2) The general rule is that a prohibition order becomes operative at the end of the period of 28 days beginning with the date specified in the notice as the date on which it is made.

(3) The general rule is subject to subsection (4) (suspended orders) and subsection (5) (appeals).

(4) If the order is suspended under section 23, the order becomes operative at the time when the suspension ends.

This is subject to subsection (5).

(5) If an appeal is brought against the order under Part 3 of Schedule 2, the order does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 14 of that Schedule (time when order is confirmed on appeal, period for further appeal expires or suspension ends).

(6) If no appeal against a prohibition order is made under that Part of that Schedule within the period for appealing against it, the order is final and conclusive as to matters which could have been raised on an appeal.

(7) Sections 584A and 584B of the Housing Act 1985 (c. 68) provide for the payment of compensation where certain prohibition orders become operative, and for the repayment of such compensation in certain circumstances.

Modifications etc. (not altering text)

C5 S. 24 applied by Housing Act 1985 (c. 68), s. 300(5)(b) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 265(1), 270(4)(5)(f), **Sch. 15 para. 20**); S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

Commencement Information

I22 S. 24 wholly in force at 16.6.2006; s. 24 not in force at Royal Assent see s. 270(4)(5); s. 24 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 24 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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25 Revocation and variation of prohibition orders

(1) The local housing authority must revoke a prohibition order if at any time they are satisfied that the hazard in respect of which the order was made does not then exist on the residential premises specified in the order in accordance with section 22(2)(b).

(2) The local housing authority may revoke a prohibition order if—

(a) in the case of an order made under section 20, they consider that there are any special circumstances making it appropriate to revoke the order; or

(b) in the case of an order made under section 21, they consider that it is appropriate to do so.

(3) Where a prohibition order relates to a number of hazards—

(a) subsection (1) is to be read as applying separately in relation to each of those hazards, and

(b) if, as a result, the authority are required to revoke only part of the order, they may vary the remainder as they consider appropriate.

(4) The local housing authority may vary a prohibition order—

(a) with the agreement of every person on whom copies of the notice were required to be served under Part 1 of Schedule 2, or

(b) in the case of an order whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.

(5) A revocation under this section comes into force at the time when it is made.

(6) If it is made with the agreement of every person within subsection (4)(a), a variation under this section comes into force at the time when it is made.

(7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 15 of Schedule 2 (time when period for appealing expires without an appeal being made or when decision to revoke or vary is confirmed on appeal).

(8) The power to revoke or vary a prohibition order under this section is exercisable by the authority either—

(a) on an application made by a person on whom a copy of the order was required to be served under Part 1 of Schedule 2, or

(b) on the authority's own initiative.

Commencement Information

I23 S. 25 wholly in force at 16.6.2006; s. 25 not in force at Royal Assent see s. 270(4)(5); s. 25 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 25 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

26 Review of suspended prohibition orders

(1) The local housing authority may at any time review a prohibition order whose operation is suspended.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) The local housing authority must review a prohibition order whose operation is suspended not later than one year after the date on which the order was made and at subsequent intervals of not more than one year.

(3) Copies of the authority's decision on a review under this section must be served on every person on whom a copy of the order was required to be served under Part 1 of Schedule 2.

Commencement Information

I24 S. 26 wholly in force at 16.6.2006; s. 26 not in force at Royal Assent see s. 270(4)(5); s. 26 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 26 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

27 Service of copies of prohibition orders etc. and related appeals

Schedule 2 (which deals with the service of copies of prohibition orders, and notices relating to their revocation or variation, and with related appeals) has effect.

Commencement Information

I25 S. 27 wholly in force at 16.6.2006; s. 27 not in force at Royal Assent see s. 270(4)(5); s. 27 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 27 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Hazard awareness notices

28 Hazard awareness notices relating to category 1 hazards: duty of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

serving a hazard awareness notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 1 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.

(3) The notice may be served in respect of the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may be served in respect of the dwelling or HMO;

(b) if those premises are one or more flats, it may be served in respect of the building containing the flat or flats (or any part of the building) or any external common parts;

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(c) if those premises are the common parts of a building containing one or more flats, it may be served in respect of the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), be served in respect of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is desirable for the notice to be so served in the interests of the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(6) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises on which the deficiency exists,

(d) the authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and

(e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.

(7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.

(8) For that purpose, any reference in that Part of that Schedule to "the specified premises" is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (6)(c).

Commencement Information

I26 S. 28 wholly in force at 16.6.2006; s. 28 not in force at Royal Assent see s. 270(4)(5); s. 28 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 28 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

29 Hazard awareness notices relating to category 2 hazards: power of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve a hazard awareness notice under this section in respect of the hazard.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 2 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.

(3) Subsections (3) and (4) of section 28 apply to a hazard awareness notice under this section as they apply to one under that section.

(4) A notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises on which the deficiency exists,

(d) the authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and

(e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.

(6) A notice under this section may be combined in one document with a notice under section 28 where they are served in respect of the same premises.

(7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.

(8) For that purpose, any reference in that Part of that Schedule to "the specified premises" is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (5)(c).

Commencement Information

I27 S. 29 wholly in force at 16.6.2006; s. 29 not in force at Royal Assent see s. 270(4)(5); s. 29 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 29 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Enforcement: improvement notices

30 Offence of failing to comply with improvement notice

(1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.

(2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice—

(a) (if no appeal is brought against the notice) not later than the date specified under section 13(2)(e) and within the period specified under section 13(2)(f);

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the tribunal determining the appeal; and

(c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 13(2)(f).

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.

(5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired.

(6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.

Commencement Information

I28 S. 30 wholly in force at 16.6.2006; s. 30 not in force at Royal Assent see s. 270(4)(5); s. 30 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 30 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

31 Enforcement action by local housing authorities

Schedule 3 (which enables enforcement action in respect of an improvement notice to be taken by local housing authorities either with or without agreement and which provides for the recovery of related expenses) has effect.

Commencement Information

I29 S. 31 wholly in force at 16.6.2006; s. 31 not in force at Royal Assent see s. 270(4)(5); s. 31 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 31 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Enforcement: prohibition orders

32 Offence of failing to comply with prohibition order etc.

(1) A person commits an offence if, knowing that a prohibition order has become operative in relation to any specified premises, he—

(a) uses the premises in contravention of the order, or

(b) permits the premises to be so used.

(2) A person who commits an offence under subsection (1) is liable on summary conviction—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) to a fine not exceeding level 5 on the standard scale, and

(b) to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.

(3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for using the premises, or (as the case may be) permitting them to be used, in contravention of the order.

Commencement Information

I30 S. 32 wholly in force at 16.6.2006; s. 32 not in force at Royal Assent see s. 270(4)(5); s. 32 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 32 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

33 Recovery of possession of premises in order to comply with order

Nothing in—

(a) the Rent Act 1977 (c. 42) or the Rent (Agriculture) Act 1976 (c. 80), or

(b) Part 1 of the Housing Act 1988 (c. 50),

prevents possession being obtained by the owner of any specified premises in relation to which a prohibition order is operative if possession of the premises is necessary for the purpose of complying with the order.

Commencement Information

I31 S. 33 wholly in force at 16.6.2006; s. 33 not in force at Royal Assent see s. 270(4)(5); s. 33 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 33 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

34 Power of tribunal to determine or vary lease

(1) Subsection (2) applies where—

(a) a prohibition order has become operative, and

(b) the whole or part of any specified premises form the whole or part of the subject matter of a lease.

(2) The lessor or the lessee may apply to a residential property tribunal for an order determining or varying the lease.

(3) On such an application the tribunal may make an order determining or varying the lease, if it considers it appropriate to do so.

(4) Before making such an order, the tribunal must give any sub-lessee an opportunity of being heard.

(5) An order under this section may be unconditional or subject to such terms and conditions as the tribunal considers appropriate.

(6) The conditions may, in particular, include conditions about the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(7) In deciding what is appropriate for the purposes of this section, the tribunal must have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.

(8) In this section "lessor" and "lessee" include a person deriving title under a lessor or lessee.

Commencement Information

I32 S. 34 wholly in force at 16.6.2006; s. 34 not in force at Royal Assent see s. 270(4)(5); s. 34 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 34 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

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,

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—

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(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

I33 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—

(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.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(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

I34 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.)

Supplementary provisions

37 Effect of improvement notices and prohibition orders as local land charges

(1) An improvement notice or a prohibition order under this Chapter is a local land charge if subsection (2), (3) or (4) applies.

(2) This subsection applies if the notice or order has become operative.

(3) This subsection applies if—

(a) the notice or order is suspended under section 14 or 23, and

(b) the period for appealing against it under Part 3 of Schedule 1 or 2 has expired without an appeal having been brought.

(4) This subsection applies if—

(a) the notice or order is suspended under section 14 or 23,

(b) an appeal has been brought against it under Part 3 of Schedule 1 or 2, and

(c) were it not suspended—

(i) the notice would have become operative under section 15(5) by virtue of paragraph 19(2) of Schedule 1 (improvement notices: confirmation on appeal or expiry of period for further appeal), or

(ii) the order would have become operative under section 24(5) by virtue of paragraph 14(2) of Schedule 2 (prohibition orders: confirmation on appeal or expiry of period for further appeal).

Commencement Information

I35 S. 37 wholly in force at 16.6.2006; s. 37 not in force at Royal Assent see s. 270(4)(5); s. 37 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 37 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

38 Savings for rights arising from breach of covenant etc.

(1) Nothing in this Chapter affects any remedy of an owner for breach of any covenant or contract entered into by a tenant in connection with any premises which are specified premises in relation to an improvement notice or prohibition order.

(2) If an owner is obliged to take possession of any premises in order to comply with an improvement notice or prohibition order, the taking of possession does not affect his right to take advantage of any such breach which occurred before he took possession.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(3) No action taken under this Chapter affects any remedy available to the tenant of any premises against his landlord (whether at common law or otherwise).

Commencement Information

I36 S. 38 wholly in force at 16.6.2006; s. 38 not in force at Royal Assent see s. 270(4)(5); s. 38 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 38 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

39 Effect of Part 4 enforcement action and redevelopment proposals

(1) Subsection (2) applies if—

(a) an improvement notice or prohibition order has been served or made under this Chapter, and

(b) a management order under Chapter 1 or 2 of Part 4 comes into force in relation to the specified premises.

(2) The improvement notice or prohibition order—

(a) if operative at the time when the management order comes into force, ceases to have effect at that time, and

(b) otherwise is to be treated as from that time as if it had not been served or made.

(3) Subsection (2)(a) does not affect any right acquired or liability (civil or criminal) incurred before the improvement notice or prohibition order ceases to have effect.

(4) Subsection (5) applies where, under section 308 of the Housing Act 1985 (c. 68) (owner's re-development proposals), the local housing authority have approved proposals for the re-development of land.

(5) No action is to be taken under this Chapter in relation to the land if, and so long as, the re-development is being proceeded with (subject to any variation or extension approved by the authority)—

(a) in accordance with the proposals; and

(b) within the time limits specified by the local housing authority.

Commencement Information

I37 S. 39 wholly in force at 16.6.2006; s. 39 not in force at Royal Assent see s. 270(4)(5); s. 39 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 39 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

VALID FROM 06/04/2006

CHAPTER 3

EMERGENCY MEASURES

Emergency remedial action

40 Emergency remedial action

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises, and

(c) no management order is in force under Chapter 1 or 2 of Part 4 in relation to the premises mentioned in paragraph (a),

the taking by the authority of emergency remedial action under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) "Emergency remedial action" means such remedial action in respect of the hazard concerned as the authority consider immediately necessary in order to remove the imminent risk of serious harm within subsection (1)(b).

(3) Emergency remedial action under this section may be taken by the authority in relation to any premises in relation to which remedial action could be required to be taken by an improvement notice under section 11 (see subsections (3) and (4) of that section).

(4) Emergency remedial action under this section may be taken by the authority in respect of more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(5) Paragraphs 3 to 5 of Schedule 3 (improvement notices: enforcement action by local authorities) apply in connection with the taking of emergency remedial action under this section as they apply in connection with the taking of the remedial action required by an improvement notice which has become operative but has not been complied with.

But those paragraphs so apply with the modifications set out in subsection (6).

(6) The modifications are as follows—

(a) the right of entry conferred by paragraph 3(4) may be exercised at any time; and

(b) the notice required by paragraph 4 (notice before entering premises) must (instead of being served in accordance with that paragraph) be served on every person, who to the authority's knowledge—

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(i) is an occupier of the premises in relation to which the authority propose to take emergency remedial action, or

(ii) if those premises are common parts of a building containing one or more flats, is an occupier of any part of the building; but

(c) that notice is to be regarded as so served if a copy of it is fixed to some conspicuous part of the premises or building.

(7) Within the period of seven days beginning with the date when the authority start taking emergency remedial action, the authority must serve—

(a) a notice under section 41, and

(b) copies of such a notice,

on the persons on whom the authority would be required under Part 1 of Schedule 1 to serve an improvement notice and copies of it.

(8) Section 240 (warrant to authorise entry) applies for the purpose of enabling a local housing authority to enter any premises to take emergency remedial action under this section in relation to the premises, as if—

(a) that purpose were mentioned in subsection (2) of that section, and

(b) the circumstances as to which the justice of the peace must be satisfied under subsection (4) were that there are reasonable grounds for believing that the authority will not be able to gain admission to the premises without a warrant.

(9) For the purposes of the operation of any provision relating to improvement notices as it applies by virtue of this section in connection with emergency remedial action or a notice under section 41, any reference in that provision to the specified premises is to be read as a reference to the premises specified, in accordance with section 41(2)(c), as those in relation to which emergency remedial action has been (or is to be) taken.

Commencement Information

I38 S. 40 wholly in force at 16.6.2006; s. 40 not in force at Royal Assent see s. 270(4)(5); s. 40 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 40 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

41 Notice of emergency remedial action

(1) The notice required by section 40(7) is a notice which complies with the following requirements of this section.

(2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises in relation to which emergency remedial action has been (or is to be) taken by the authority under section 40 and the nature of that remedial action,

(d) the power under which that remedial action has been (or is to be) taken by the authority, and

(e) the date when that remedial action was (or is to be) started.

(3) The notice must contain information about—

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(a) the right to appeal under section 45 against the decision of the authority to make the order, and

(b) the period within which an appeal may be made.

Commencement Information

I39 S. 41 wholly in force at 16.6.2006; s. 41 not in force at Royal Assent see s. 270(4)(5); s. 41 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 41 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

42 Recovery of expenses of taking emergency remedial action

(1) This section relates to the recovery by a local housing authority of expenses reasonably incurred in taking emergency remedial action under section 40 ("emergency expenses").

(2) Paragraphs 6 to 14 of Schedule 3 (improvement notices: enforcement action by local authorities) apply for the purpose of enabling alocal housing authority to recover emergency expenses as they apply for the purpose of enabling such an authority to recover expenses incurred in taking remedial action under paragraph 3 of that Schedule.

But those paragraphs so apply with the modifications set out in subsection (3).

(3) The modifications are as follows—

(a) any reference to the improvement notice is to be read as a reference to the notice under section 41; and

(b) no amount is recoverable in respect of any emergency expenses until such time (if any) as is the operative time for the purposes of this subsection (see subsection (4)).

(4) This subsection gives the meaning of "the operative time" for the purposes of subsection (3)—

(a) if no appeal against the authority's decision to take the emergency remedial action is made under section 45 before the end of the period of 28 days mentioned in subsection (3)(a) of that section, "the operative time" is the end of that period;

(b) if an appeal is made under that section within that period and a decision is given on the appeal which confirms the authority's decision, "the operative time" is as follows—

(i) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, "the operative time" is the end of that period;

(ii) if an appeal to the Lands Tribunal is brought, "the operative time" is the time when a decision is given on the appeal which confirms the authority's decision.

(5) For the purposes of subsection (4)—

(a) the withdrawal of an appeal has the same effect as a decision which confirms the authority's decision, and

(b) references to a decision which confirms the authority's decision are to a decision which confirms it with or without variation.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I40 S. 42 wholly in force at 16.6.2006; s. 42 not in force at Royal Assent see s. 270(4)(5); s. 42 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 42 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Emergency prohibition orders

43 Emergency prohibition orders

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises, and

(c) no management order is in force under Chapter 1 or 2 of Part 4 in relation to the premises mentioned in paragraph (a),

making an emergency prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) An emergency prohibition order under this section is an order imposing, with immediate effect, such prohibition or prohibitions on the use of any premises as are specified in the order in accordance with subsection (3) and section 44.

(3) As regards the imposition of any such prohibition or prohibitions, the following provisions apply to an emergency prohibition order as they apply to a prohibition order under section 20—

(a) subsections (3) to (5) of that section, and

(b) subsections (3) to (5) and (7) to (9) of section 22.

(4) Part 1 of Schedule 2 (service of copies of prohibition orders) applies in relation to an emergency prohibition order as it applies to a prohibition order, but any requirement to serve copies within a specified period of seven days is to be read as a reference to serve them on the day on which the emergency prohibition order is made (or, if that is not possible, as soon after that day as is possible).

(5) The following provisions also apply to an emergency prohibition order as they apply to a prohibition order (or to a prohibition order which has become operative, as the case may be)—

(a) section 25 (revocation and variation);

(b) sections 32 to 36 (enforcement);

(c) sections 37 to 39 (supplementary provisions); and

(d) Part 2 of Schedule 2 (notices relating to revocation or variation);

(e) Part 3 of that Schedule (appeals) so far as it relates to any decision to vary, or to refuse to revoke or vary, a prohibition order; and

(f) sections 584A and 584B of the Housing Act 1985 (c. 68) (payment, and repayment, of compensation).

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(6) For the purposes of the operation of any provision relating to prohibition orders as it applies in connection with emergency prohibition orders by virtue of this section or section 45, any reference in that provision to the specified premises is to be read as a reference to the premises specified, in accordance with section 44(2)(c), as the premises in relation to which prohibitions are imposed by the order.

Commencement Information

I41 S. 43 wholly in force at 16.6.2006; s. 43 not in force at Royal Assent see s. 270(4)(5); s. 43 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 43 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

44 Contents of emergency prohibition orders

(1) An emergency prohibition order under section 43 must comply with the following requirements of this section.

(2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard concerned and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4) of section 22 as applied by section 43(3)), and

(d) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25 (as applied by section 43(5)).

(3) The order must contain information about—

(a) the right to appeal under section 45 against the order, and

(b) the period within which an appeal may be made,

and specify the date on which the order is made.

Commencement Information

I42 S. 44 wholly in force at 16.6.2006; s. 44 not in force at Royal Assent see s. 270(4)(5); s. 44 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 44 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Appeals

45 Appeals relating to emergency measures

(1) A person on whom a notice under section 41 has been served in connection with the taking of emergency remedial action under section 40 may appeal to a residential property tribunal against the decision of the local housing authority to take that action.

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(2) A relevant person may appeal to a residential property tribunal against an emergency prohibition order.

(3) An appeal under subsection (1) or (2) must be made within the period of 28 days beginning with—

(a) the date specified in the notice under section 41 as the date when the emergency remedial action was (or was to be) started, or

(b) the date specified in the emergency prohibition order as the date on which the order was made,

as the case may be.

(4) A residential property tribunal may allow an appeal to be made to it after the end of that period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

(5) An appeal under subsection (1) or (2)—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(6) The tribunal may—

(a) in the case of an appeal under subsection (1), confirm, reverse or vary the decision of the authority;

(b) in the case of an appeal under subsection (2), confirm or vary the emergency prohibition order or make an order revoking it as from a date specified in that order.

(7) Paragraph 16 of Schedule 2 applies for the purpose of identifying who is a relevant person for the purposes of subsection (2) in relation to an emergency prohibition order as it applies for the purpose of identifying who is a relevant person for the purposes of Part 3 of that Schedule in relation to a prohibition order.

Commencement Information

I43 S. 45 wholly in force at 16.6.2006; s. 45 not in force at Royal Assent see s. 270(4)(5); s. 45 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 45 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

CHAPTER 4

DEMOLITION ORDERS AND SLUM CLEARANCE DECLARATIONS

Demolition orders

46 Demolition orders

For section 265 of the Housing Act 1985 (c. 68) substitute—

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"**265 Demolition orders**

(1) If—
  (a) the local housing authority are satisfied that a category 1 hazard exists in a dwelling or HMO which is not a flat, and
  (b) this subsection is not disapplied by subsection (5),

making a demolition order in respect of the dwelling or HMO is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action).

(2) If, in the case of any building containing one or more flats—
  (a) the local housing authority are satisfied that a category 1 hazard exists in one or more of the flats contained in the building or in any common parts of the building, and
  (b) this subsection is not disapplied by subsection (5),

making a demolition order in respect of the building is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004.

(3) The local housing authority may make a demolition order in respect of a dwelling or HMO which is not a flat if—
  (a) they are satisfied that a category 2 hazard exists in the dwelling or HMO,
  (b) this subsection is not disapplied by subsection (5), and
  (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

(4) The local housing authority may make a demolition order in respect of any building containing one or more flats if—
  (a) they are satisfied that a category 2 hazard exists in one or more of the flats contained in the building or in any common parts of the building,
  (b) this subsection is not disapplied by subsection (5), and
  (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

(5) None of subsections (1) to (4) applies if a management order under Chapter 1 or 2 of Part 4 is in force in relation to the premises concerned.

(6) This section also has effect subject to section 304(1) (no demolition order to be made in respect of listed building).

(7) In this section "HMO" means house in multiple occupation.

(8) An order made under subsection (3) or (4)—
  (a) may make different provision for different cases or descriptions of case (including different provision for different areas);
  (b) may contain such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate; and

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(c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) Sections 584A and 584B provide for the payment of compensation where demolition orders are made under this section, and for the repayment of such compensation in certain circumstances."

Commencement Information

I44 S. 46 wholly in force at 16.6.2006; s. 46 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 46 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 46 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Slum clearance declarations

47 Clearance areas

In section 289 of the Housing Act 1985 (c. 68) (declaration of clearance area) for subsections (2) and (2A) substitute—

"(2) If the local housing authority are satisfied, in relation to any area—

(a) that each of the residential buildings in the area contains a category 1 hazard, and

(b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area,

declaring the area to be a clearance area is a course of action available to the authority in relation to the hazard or hazards for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action).

(2ZA) The local housing authority may declare an area to be a clearance area if they are satisfied that—

(a) the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets; and

(b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.

(2ZB) The local housing authority may declare an area to be a clearance area if they are satisfied that—

(a) that each of the residential buildings in the area contains a category 2 hazard,

(b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, and

(c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

Subsection (8) of section 265 applies in relation to an order under this subsection as it applies in relation to an order under subsection (3) or (4) of that section.

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(2ZC) In this section "residential buildings" means buildings which are dwellings or houses in multiple occupation or contain one or more flats.

This is subject to subsection (2ZD).

(2ZD) For the purposes of subsection (2) or (2ZB)—

(a) subsection (2ZC) applies as if "two or more flats" were substituted for "one or more flats"; and

(b) a residential building containing two or more flats is only to be treated as containing a category 1 or 2 hazard if two or more of the flats within it contain such a hazard.

(2ZE) Subsections (2) to (2ZB) are subject to subsections (2B) to (4) and (5B)."

Commencement Information

I45 S. 47 wholly in force at 16.6.2006; s. 47 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 47 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 47 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Appeals

48 Transfer of jurisdiction in respect of appeals relating to demolition orders etc.

(1) Part 9 of the Housing Act 1985 (c. 68) (slum clearance) is further amended as follows.

(2) In section 269 (right of appeal against demolition order etc.)—

(a) in subsection (1), for "the county court" substitute " a residential property tribunal ";

(b) in subsection (3), for "court" substitute " tribunal "; and

(c) in subsection (6)(a) and (b), for "Court of Appeal" substitute " Lands Tribunal ".

(3) In section 272 (demolition orders)—

(a) in subsection (2), for "the court" in the first place it appears substitute " a residential property tribunal ", and in the second place it appears substitute " such a tribunal ";

(b) in subsection (5), for the words from the beginning to "and has" substitute " A residential property tribunal has jurisdiction to hear and determine proceedings under subsection (1) (as well as those under subsection (2)), and a county court has "; and

(c) in subsection (6), for "the court" substitute " a tribunal or court ".

(4) In section 317 (power of court to determine lease where premises demolished etc.)—

(a) in subsection (1), for "the county court" substitute " a residential property tribunal "; and

(b) in subsections (2) and (3), for "court" substitute " tribunal ".

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(5) In section 318 (power of court to authorise execution of works on unfit premises or for improvement)—
- (a) in the sidenote, for "court" substitute " tribunal ";
- (b) in subsection (1), for "the court" in the first place it appears substitute " a residential property tribunal ", and in the second place it appears substitute " the tribunal ";
- (c) in subsections (2) and (3), for "court" substitute " tribunal "; and
- (d) omit subsection (4).

Commencement Information

I46 S. 48 wholly in force at 16.6.2006; s. 48 not in force at Royal Assent see s. 270(4)(5); s. 48 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 48 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

CHAPTER 5

GENERAL AND MISCELLANEOUS PROVISIONS RELATING TO ENFORCEMENT ACTION

Recovery of expenses relating to enforcement action

49 Power to charge for certain 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—
- (a) serving an improvement notice under section 11 or 12;
- (b) making a prohibition order under section 20 or 21;
- (c) serving a hazard awareness notice under section 28 or 29;
- (d) taking emergency remedial action under section 40;
- (e) making an emergency prohibition order under section 43; or
- (f) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

(2) The expenses are, in the case of the service of an improvement notice or a hazard awareness notice, the expenses incurred in—
- (a) determining whether to serve the notice,
- (b) identifying any action to be specified in the notice, and
- (c) serving the notice.

(3) The expenses are, in the case of emergency remedial action under section 40, the expenses incurred in—
- (a) determining whether to take such action, and
- (b) serving the notice required by subsection (7) of that section.

(4) The expenses are, in the case of a prohibition order under section 20 or 21 of this Act, an emergency prohibition order under section 43 or a demolition order under section 265 of the Housing Act 1985, the expenses incurred in—

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(a) determining whether to make the order, and
(b) serving copies of the order on persons as owners of premises.

(5) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering expenses incurred by them in—
(a) carrying out any review under section 17 or 26, or
(b) serving copies of the authority's decision on such a review.

(6) The amount of the charge may not exceed such amount as is specified by order of the appropriate national authority.

(7) Where a tribunal allows an appeal against the underlying notice or order mentioned in subsection (1), it may make such order as it considers appropriate reducing, quashing, or requiring the repayment of, any charge under this section made in respect of the notice or order.

Commencement Information

I47 S. 49 wholly in force at 16.6.2006; s. 49 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 49 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 49 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

50 Recovery of charge under section 49

(1) This section relates to the recovery by a local housing authority of a charge made by them under section 49.

(2) In the case of—
(a) an improvement notice under section 11 or 12, or
(b) a hazard awareness notice under section 28 or 29,
the charge may be recovered from the person on whom the notice is served.

(3) In the case of emergency remedial action under section 40, the charge may be recovered from the person served with the notice required by subsection (7) of that section.

(4) In the case of—
(a) a prohibition order under section 20 or 21,
(b) an emergency prohibition order under section 43, or
(c) a demolition order under section 265 of the Housing Act 1985 (c. 68),
the charge may be recovered from any person on whom a copy of the order is served as an owner of the premises.

(5) A demand for payment of the charge must be served on the person from whom the authority seek to recover it.

(6) The demand becomes operative, if no appeal is brought against the underlying notice or order, at the end of the period of 21 days beginning with the date of service of the demand.

(7) If such an appeal is brought and a decision is given on the appeal which confirms the underlying notice or order, the demand becomes operative at the time when—

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(a) the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, or

(b) a decision is given on such an appeal which confirms the notice or order.

(8) For the purposes of subsection (7)—

(a) the withdrawal of an appeal has the same effect as a decision which confirms the notice or order, and

(b) references to a decision which confirms the notice or order are to a decision which confirms it with or without variation.

(9) As from the time when the demand becomes operative, the sum recoverable by the authority is, until recovered, a charge on the premises concerned.

(10) The charge takes effect at that time as a legal charge which is a local land charge.

(11) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) 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.

(12) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.

(13) The appropriate national authority may by regulations prescribe the form of, and the particulars to be contained in, a demand for payment of any charge under section 49.

Commencement Information

I48 S. 50 wholly in force at 16.6.2006; s. 50 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 50 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 50 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Repeals

51 Repeal of power to improve existing enforcement procedures

Omit section 86 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (power to improve existing enforcement procedures in relation to unfitness for human habitation etc.).

Commencement Information

I49 S. 51 wholly in force at 16.6.2006; s. 51 not in force at Royal Assent see s. 270(4)(5); s. 51 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 51 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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52 Repeal of provisions relating to demolition of obstructive buildings

Omit sections 283 to 288 of the Housing Act 1985 (c. 68) (demolition of obstructive buildings).

Commencement Information

I50 S. 52 wholly in force at 16.6.2006; s. 52 not in force at Royal Assent see s. 270(4)(5); s. 52 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 52 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

53 Miscellaneous repeals etc. in relation to fire hazards

(1) In the London Building Acts (Amendment) Act 1939 (c. xcvii)—

(a) omit section 35(1)(c)(i) (protection against fire in certain old buildings let in flats or tenements);

(b) in section 36(1) (projecting shops in which persons are employed or sleep) omit "or sleep"; and

(c) in section 37(1) (means of access to roofs), in paragraph (b) for the words from "except" onwards substitute " except to the extent that it is occupied for residential purposes; ".

(2) In the County of Merseyside Act 1980 (c. x) omit section 48 (means of escape from fire) and section 49(1) and (2) (maintenance of means of escape from fire).

(3) In the Building Act 1984 (c. 55) omit section 72(6)(a) (means of escape from fire in case of certain buildings let in flats or tenements).

(4) In the Leicestershire Act 1985 (c. xvii) omit section 54(6)(a) (means of escape from fire in case of certain buildings used as flats or tenements).

Commencement Information

I51 S. 53 partly in force; s. 53 not in force at Royal Assent see s. 270(4)(5); s. 53 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

VALID FROM 06/04/2006

Index

54 Index of defined expressions: Part 1

The following table shows where expressions used in this Part are defined or otherwise explained.

Expression	*Provision of this Act*
Appropriate national authority	Section 261(1)
Building containing one or more flats	Section 1(5)

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Category 1 hazard	Section 2(1)
Category 2 hazard	Section 2(1)
Common parts	Section 1(5)
Compliance with improvement notice	Section 30(2)
District of local housing authority	Section 261(6)
Dwelling	Section 1(5), (6)
External common parts	Section 1(5)
Flat	Section 1(5) to (7)
Hazard	Section 2(1)
Hazard awareness notice	Section 28(2) or 29(2)
Health	Section 2(5)
HMO	Section 1(5), (6) (and see also section 1(8))
Improvement notice	Section 11(2) or 12(2)
Lease, lessee etc.	Section 262(1) to (4)
Local housing authority	Section 261(2) to (5)
Occupier (and related expressions)	Section 262(6)
Owner	Section 262(7)
Person having control	Section 263(1) and (2)
Person managing	Section 263(3) and (4)
Prohibition order	Section 20(2) or 21(2)
Remedial action	Section 11(8)
Residential premises	Section 1(4)
Residential property tribunal	Section 229
Specified premises, in relation to an improvement notice	Section 13(5)
Specified premises, in relation to a prohibition order	Section 22(10)
Tenancy, tenant	Section 262(1) to (5)
Unoccupied HMO accommodation	Section 1(5) (and see also section 1(8)).

Commencement Information

I52 S. 54 wholly in force at 16.6.2006; s. 54 not in force at Royal Assent see s. 270(4)(5); s. 54 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 54 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Modifications etc. (not altering text)

C6 Pt. 2 modified (E.) (1.10.2007) by The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (England) Regulations 2007 (S.I. 2007/1904), **regs. 2-10**

C7 Pt. 2 modified (W.) (5.12.2007) by The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (Wales) Regulations 2007 (S.I. 2007/3231), **regs. 2-10**

Introductory

55 Licensing of HMOs to which this Part applies

(1) This Part provides for HMOs to be licensed by local housing authorities where—
- (a) they are HMOs to which this Part applies (see subsection (2)), and
- (b) they are required to be licensed under this Part (see section 61(1)).

(2) This Part applies to the following HMOs in the case of each local housing authority—
- (a) any HMO in the authority's district which falls within any prescribed description of HMO, and
- (b) if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation.

(3) The appropriate national authority may by order prescribe descriptions of HMOs for the purposes of subsection (2)(a).

(4) The power conferred by subsection (3) may be exercised in such a way that this Part applies to all HMOs in the district of a local housing authority.

(5) Every local housing authority have the following general duties—
- (a) to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part;
- (b) to ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time; and
- (c) to satisfy themselves, as soon as is reasonably practicable, that there are no Part 1 functions that ought to be exercised by them in relation to the premises in respect of which such applications are made.

(6) For the purposes of subsection (5)(c)—
- (a) "Part 1 function" means any duty under section 5 to take any course of action to which that section applies or any power to take any course of action to which section 7 applies; and
- (b) the authority may take such steps as they consider appropriate (whether or not involving an inspection) to comply with their duty under subsection (5)(c) in

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relation to each of the premises in question, but they must in any event comply with it within the period of 5 years beginning with the date of the application for a licence.

Commencement Information

I53 S. 55 wholly in force at 16.6.2006; s. 55 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 55(1)(2)(5)(a)(b) in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(a)**; s. 55(1)(2)(5)(a)(b) in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(b)**; s. 55 in force for E. in so far as not already in force at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)**; s. 55 in force for W. in so far as not already in force at 16.6.2006 by S.I. 2006/1535, **art. 2(a)**

Designation of additional licensing areas

VALID FROM 15/06/2005

56 Designation of areas subject to additional licensing

(1) A local housing authority may designate either—
  (a) the area of their district, or
  (b) an area in their district,
as subject to additional licensing in relation to a description of HMOs specified in the designation, if the requirements of this section are met.

(2) The authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.

(3) Before making a designation the authority must—
  (a) take reasonable steps to consult persons who are likely to be affected by the designation; and
  (b) consider any representations made in accordance with the consultation and not withdrawn.

(4) The power to make a designation under this section may be exercised in such a way that this Part applies to all HMOs in the area in question.

(5) In forming an opinion as to the matter mentioned in subsection (2), the authority must have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question.

(6) Section 57 applies for the purposes of this section.

Commencement Information

I54 S. 56 wholly in force at 25.11.2005; s. 56 not in force at Royal Assent see s. 270(4)(5); s. 56 in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(b)**; s. 56 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(c)**

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

VALID FROM 15/06/2005

57 Designations under section 56: further considerations

(1) This section applies to the power of a local housing authority to make designations under section 56.

(2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy.

(3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both—

(a) as regards combining licensing under this Part with other courses of action available to them, and

(b) as regards combining such licensing with measures taken by other persons.

(4) The authority must not make a particular designation under section 56 unless—

(a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question, and

(b) they consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).

(5) In this Act "anti-social behaviour" means conduct on the part of occupiers of, or visitors to, residential premises—

(a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or

(b) which involves or is likely to involve the use of such premises for illegal purposes.

Commencement Information

I55 S. 57 wholly in force at 25.11.2005; s. 57 not in force at Royal Assent see s. 270(4)(5); s. 57 in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(b)**; s. 57 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(c)**

VALID FROM 06/04/2006

58 Designation needs confirmation or general approval to be effective

(1) A designation of an area as subject to additional licensing cannot come into force unless—

(a) it has been confirmed by the appropriate national authority; or

(b) it falls within a description of designations in relation to which that authority has given a general approval in accordance with subsection (6).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(2) The appropriate national authority may either confirm, or refuse to confirm, a designation as it considers appropriate.

(3) If the appropriate national authority confirms a designation, the designation comes into force on the date specified for this purpose by that authority.

(4) That date must be no earlier than three months after the date on which the designation is confirmed.

(5) A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.

(6) Accordingly a general approval may (in particular) be given in relation to—
- (a) designations made by a specified local housing authority;
- (b) designations made by a local housing authority falling within a specified description of such authorities;
- (c) designations relating to HMOs of a specified description.

"Specified" means specified by the appropriate national authority in the approval.

(7) If, by virtue of a general approval, a designation does not need to be confirmed before it comes into force, the designation comes into force on the date specified for this purpose in the designation.

(8) That date must be no earlier than three months after the date on which the designation is made.

Commencement Information

I56 S. 58 wholly in force at 16.6.2006; s. 58 not in force at Royal Assent see s. 270(4)(5); s. 58 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 58 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

59 Notification requirements relating to designations

(1) This section applies to a designation—
- (a) when it is confirmed under section 58, or
- (b) (if it is not required to be so confirmed) when it is made by the local housing authority.

(2) As soon as the designation is confirmed or made, the authority must publish in the prescribed manner a notice stating—
- (a) that the designation has been made,
- (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 58 applied to it (giving details of the approval in question),
- (c) the date on which the designation is to come into force, and
- (d) any other information which may be prescribed.

(3) After publication of a notice under subsection (2), and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements—

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(a) copies of the designation, and
(b) such information relating to the designation as is prescribed.

(4) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

Commencement Information

I57 S. 59 wholly in force at 16.6.2006; s. 59 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 59 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 59 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

60 Duration, review and revocation of designations

(1) Unless previously revoked under subsection (4), a designation ceases to have effect at the time that is specified for this purpose in the designation.

(2) That time must be no later than five years after the date on which the designation comes into force.

(3) A local housing authority must from time to time review the operation of any designation made by them.

(4) If following a review they consider it appropriate to do so, the authority may revoke the designation.

(5) If they do revoke the designation, the designation ceases to have effect at the time that is specified by the authority for this purpose.

(6) On revoking a designation the authority must publish notice of the revocation in such manner as is prescribed by regulations made by the appropriate national authority.

Commencement Information

I58 S. 60 wholly in force at 16.6.2006; s. 60 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 60 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 60 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

HMOs required to be licensed

61 Requirement for HMOs to be licensed

(1) Every HMO to which this Part applies must be licensed under this Part unless—
(a) a temporary exemption notice is in force in relation to it under section 62, or
(b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

(2) A licence under this Part is a licence authorising occupation of the house concerned by not more than a maximum number of households or persons specified in the licence.

(3) Sections63 to 67 deal with applications for licences, the granting or refusal of licences and the imposition of licence conditions.

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(4) The local housing authority must take all reasonable steps to secure that applications for licences are made to them in respect of HMOs in their area which are required to be licensed under this Part but are not.

(5) The appropriate national authority may by regulations provide for—
- (a) any provision of this Part, or
- (b) section 263 (in its operation for the purposes of any such provision),

to have effect in relation to a section 257 HMO with such modifications as are prescribed by the regulations.

A "section 257 HMO" is an HMO which is a converted block of flats to which section 257 applies.

(6) In this Part (unless the context otherwise requires)—
- (a) references to a licence are to a licence under this Part,
- (b) references to a licence holder are to be read accordingly, and
- (c) references to an HMO being (or not being) licensed under this Part are to its being (or not being) an HMO in respect of which a licence is in force under this Part.

Commencement Information

I59 S. 61 wholly in force at 16.6.2006; s. 61 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 61 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 61 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

62 Temporary exemption from licensing requirement

(1) This section applies where a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed.

(2) The authority may, if they think fit, serve on that person a notice under this section ("a temporary exemption notice") in respect of the house.

(3) If a temporary exemption notice is served under this section, the house is (in accordance with sections 61(1) and 85(1)) not required to be licensed either under this Part or under Part 3 during the period for which the notice is in force.

(4) A temporary exemption notice under this section is in force—
- (a) for the period of 3 months beginning with the date on which it is served, or
- (b) (in the case of a notice served by virtue of subsection (5)) for the period of 3 months after the date when the first notice ceases to be in force.

(5) If the authority—
- (a) receive a further notification under subsection (1), and

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(b) consider that there are exceptional circumstances that justify the service of a second temporary exemption notice in respect of the house that would take effect from the end of the period of 3 months applying to the first notice,

the authority may serve a second such notice on the person having control of or managing the house (but no further notice may be served by virtue of this subsection).

(6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of—

(a) the decision,

(b) the reasons for it and the date on which it was made,

(c) the right to appeal against the decision under subsection (7), and

(d) the period within which an appeal may be made under that subsection.

(7) The person concerned may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made.

(8) Such an appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(9) The tribunal—

(a) may confirm or reverse the decision of the authority, and

(b) if it reverses the decision, must direct the authority to serve a temporary exemption notice that comes into force on such date as the tribunal directs.

Commencement Information

I60 S. 62 wholly in force at 16.6.2006; s. 62 not in force at Royal Assent see s. 270(4)(5); s. 62 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 62 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Grant or refusal of licences

63 Applications for licences

(1) An application for a licence must be made to the local housing authority.

(2) The application must be made in accordance with such requirements as the authority may specify.

(3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.

(4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).

(5) The appropriate national authority may by regulations make provision about the making of applications under this section.

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(6) Such regulations may, in particular—
- (a) specify the manner and form in which applications are to be made;
- (b) require the applicant to give copies of the application, or information about it, to particular persons;
- (c) specify the information which is to be supplied in connection with applications;
- (d) specify the maximum fees which are to be charged (whether by specifying amounts or methods for calculating amounts);
- (e) specify cases in which no fees are to be charged or fees are to be refunded.

(7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—
- (a) all costs incurred by the authority in carrying out their functions under this Part, and
- (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter).

Commencement Information

I61 S. 63 wholly in force at 16.6.2006; s. 63 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 63 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 63 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

64 Grant or refusal of licence

(1) Where an application in respect of an HMO is made to the local housing authority under section 63, the authority must either—
- (a) grant a licence in accordance with subsection (2), or
- (b) refuse to grant a licence.

(2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—
- (a) to the applicant, or
- (b) to some other person, if both he and the applicant agree.

(3) The matters are—
- (a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in subsection (4) or that it can be made so suitable by the imposition of conditions under section 67;
- (b) that the proposed licence holder—
  - (i) is a fit and proper person to be the licence holder, and
  - (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;

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(c) that the proposed manager of the house is either—
(i) the person having control of the house, or
(ii) a person who is an agent or employee of the person having control of the house;
(d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
(e) that the proposed management arrangements for the house are otherwise satisfactory.

(4) The maximum number of households or persons referred to in subsection (3)(a) is—
(a) the maximum number specified in the application, or
(b) some other maximum number decided by the authority.

(5) Sections 65 and 66 apply for the purposes of this section.

Commencement Information

I62 S. 64 wholly in force at 16.6.2006; s. 64 not in force at Royal Assent see s. 270(4)(5); s. 64 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 64 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

65 Tests as to suitability for multiple occupation

(1) The local housing authority cannot be satisfied for the purposes of section 64(3)(a) that the house is reasonably suitable for occupation by a particular maximum number of households or persons if they consider that it fails to meet prescribed standards for occupation by that number of households or persons.

(2) But the authority may decide that the house is not reasonably suitable for occupation by a particular maximum number of households or persons even if it does meet prescribed standards for occupation by that number of households or persons.

(3) In this section "prescribed standards" means standards prescribed by regulations made by the appropriate national authority.

(4) The standards that may be so prescribed include—
(a) standards as to the number, type and quality of—
(i) bathrooms, toilets, washbasins and showers,
(ii) areas for food storage, preparation and cooking, and
(iii) laundry facilities,
which should be available in particular circumstances; and
(b) standards as to the number, type and quality of other facilities or equipment which should be available in particular circumstances.

Commencement Information

I63 S. 65 wholly in force at 16.6.2006; s. 65 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 65 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 65 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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VALID FROM 06/04/2006

66 Tests for fitness etc. and satisfactory management arrangements

(1) In deciding for the purposes of section 64(3)(b) or (d) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—

(a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);

(b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;

(c) contravened any provision of the law relating to housing or of landlord and tenant law; or

(d) acted otherwise than in accordance with any applicable code of practice approved under section 233.

(3) Evidence is within this subsection if—

(a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and

(b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

(4) For the purposes of section 64(3)(b) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

(5) In deciding for the purposes of section 64(3)(e) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

(6) The considerations are—

(a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;

(b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and

(c) whether any proposed management structures and funding arrangements are suitable.

(7) Any reference in section 64(3)(c)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I64 S. 66 wholly in force at 16.6.2006; s. 66 not in force at Royal Assent see s. 270(4)(5); s. 66 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 66 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

67 Licence conditions

(1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following—

(a) the management, use and occupation of the house concerned, and

(b) its condition and contents.

(2) Those conditions may, in particular, include (so far as appropriate in the circumstances)—

(a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;

(b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;

(c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;

(d) conditions requiring such facilities and equipment to be kept in repair and proper working order;

(e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;

(f) conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233.

(3) A licence must include the conditions required by Schedule 4.

(4) As regards the relationship between the authority's power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 ("Part 1 functions")—

(a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;

(b) this does not, however, prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment within subsection (2)(c) above, even if the same result could be achieved by the exercise of Part 1 functions;

(c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.

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(5) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.

(6) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house.

Commencement Information

I65 S. 67 wholly in force at 16.6.2006; s. 67 not in force at Royal Assent see s. 270(4)(5); s. 67 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 67 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

68 Licences: general requirements and duration

(1) A licence may not relate to more than one HMO.

(2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.

(3) A licence—

(a) comes into force at the time that is specified in or determined under the licence for this purpose, and

(b) unless previously terminated by subsection (7) or revoked under section 70, continues in force for the period that is so specified or determined.

(4) That period must not end more than 5 years after—

(a) the date on which the licence was granted, or

(b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.

(5) Subsection (3)(b) applies even if, at any time during that period, the HMO concerned subsequently ceases to be one to which this Part applies.

(6) A licence may not be transferred to another person.

(7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

(8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part and Part 3 as if on that date a temporary exemption notice had been served in respect of the house under section 62.

(9) If, at any time during that period ("the initial period"), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 62.

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(10) Subsections (6) to (8) of section 62 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice.

Commencement Information

I66 S. 68 wholly in force at 16.6.2006; s. 68 not in force at Royal Assent see s. 270(4)(5); s. 68 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 68 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Variation and revocation of licences

69 Variation of licences

(1) The local housing authority may vary a licence—

(a) if they do so with the agreement of the licence holder, or

(b) if they consider that there has been a change of circumstances since the time when the licence was granted.

For this purpose "change of circumstances" includes any discovery of new information.

(2) Subsection (3) applies where the authority—

(a) are considering whether to vary a licence under subsection (1)(b); and

(b) are considering—

(i) what number of households or persons is appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or

(ii) the standards applicable to occupation by a particular number of households or persons.

(3) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to vary the licence as were applicable at the time when it was granted.

This is subject to subsection (4).

(4) If the standards—

(a) prescribed under section 65, and

(b) applicable at the time when the licence was granted,

have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.

(5) A variation made with the agreement of the licence holder takes effect at the time when it is made.

(6) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(7) The power to vary a licence under this section is exercisable by the authority either—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) on an application made by the licence holder or a relevant person, or
(b) on the authority's own initiative.

(8) In subsection (7) "relevant person" means any person (other than the licence holder)—
(a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
(b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
(c) on whom any restriction or obligation is imposed by the licence in accordance with section 67(5).

Commencement Information
I67 S. 69 wholly in force at 16.6.2006; s. 69 in force at Royal Assent for certain purposes see s. 270(2)(b); s. 69 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 69 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

70 Revocation of licences

(1) The local housing authority may revoke a licence—
(a) if they do so with the agreement of the licence holder;
(b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holder or other person);
(c) in any of the cases mentioned in subsection (3) (circumstances relating to HMO concerned); or
(d) in any other circumstances prescribed by regulations made by the appropriate national authority.

(2) The cases referred to in subsection (1)(b) are as follows—
(a) where the authority consider that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;
(b) where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and
(c) where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.

Section 66(1) applies in relation to paragraph (b) or (c) above as it applies in relation to section 64(3)(b) or (d).

(3) The cases referred to in subsection (1)(c) are as follows—
(a) where the HMO to which the licence relates ceases to be an HMO to which this Part applies; and
(b) where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the HMO, refuse to grant a new licence to the licence holder on similar terms in respect of it.

(4) Subsection (5) applies where the authority are considering whether to revoke a licence by virtue of subsection (3)(b) on the grounds that the HMO is not reasonably suitable

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for the number of households or persons specified in the licence as the maximum number authorised to occupy the house.

(5) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to revoke the licence as were applicable at the time when it was granted.

This is subject to subsection (6).

(6) If the standards—
(a) prescribed under section 65, and
(b) applicable at the time when the licence was granted,
have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.

(7) A revocation made with the agreement of the licence holder takes effect at the time when it is made.

(8) Otherwise, a revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(9) The power to revoke a licence under this section is exercisable by the authority either—
(a) on an application made by the licence holder or a relevant person, or
(b) on the authority's own initiative.

(10) In subsection (9) "relevant person" means any person (other than the licence holder)—
(a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
(b) who is a person managing or having control of that house (and does not fall within paragraph (a)), or
(c) on whom any restriction or obligation is imposed by the licence in accordance with section 67(5).

Commencement Information

I68 S. 70 wholly in force at 16.6.2006; s. 70 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 70 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 70 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Procedure and appeals

71 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I69 S. 71 wholly in force at 16.6.2006; s. 71 not in force at Royal Assent see s. 270(4)(5); s. 71 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 71 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Enforcement

VALID FROM 06/04/2006

72 Offences in relation to licensing of HMOs

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

(2) A person commits an offence if—
- (a) he is a person having control of or managing an HMO which is licensed under this Part,
- (b) he knowingly permits another person to occupy the house, and
- (c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3) A person commits an offence if—
- (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and
- (b) he fails to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
- (a) a notification had been duly given in respect of the house under section 62(1), or
- (b) an application for a licence had been duly made in respect of the house under section 63,

and that notification or application was still effective (see subsection (8)).

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—
- (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
- (b) for permitting the person to occupy the house, or
- (c) for failing to comply with the condition,

as the case may be.

(6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding £20,000.

(7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(8) For the purposes of subsection (4) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either—

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

(9) The conditions are—

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of a residential property tribunal) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(10) In subsection (9) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Commencement Information

I70 S. 72 wholly in force at 16.6.2006; s. 72 not in force at Royal Assent see s. 270(4)(5); s. 72(2)(3)(5)(6)(7) in force for E. at 6.4.2006 and s. 72 in force for E. in so far as not already in force at 6.7.2006 by S.I. 2006/1060, **art. 2(1)(b)(2)(b)** (with Sch.); s. 72 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/07/2006

73 Other consequences of operating unlicensed HMOs: rent repayment orders

(1) For the purposes of this section an HMO is an "unlicensed HMO" if—

(a) it is required to be licensed under this Part but is not so licensed, and

(b) neither of the conditions in subsection (2) is satisfied.

(2) The conditions are—

(a) that a notification has been duly given in respect of the HMO under section 62(1) and that notification is still effective (as defined by section 72(8));

(b) that an application for a licence has been duly made in respect of the HMO under section 63 and that application is still effective (as so defined).

(3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—

(a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of a part of an unlicensed HMO, or

(b) any other provision of such a tenancy or licence.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 74.

(5) If—

(a) an application in respect of an HMO is made to a residential property tribunal by the local housing authority or an occupier of a part of the HMO, and

(b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8),

the tribunal may make an order (a "rent repayment order") requiring the appropriate person to pay to the applicant such amount in respect of the housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 74(2) to (8)).

(6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—

(a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 72(1) in relation to the HMO (whether or not he has been charged or convicted),

(b) that housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO during any period during which it appears to the tribunal that such an offence was being committed, and

(c) that the requirements of subsection (7) have been complied with in relation to the application.

(7) Those requirements are as follows—

(a) the authority must have served on the appropriate person a notice (a "notice of intended proceedings")—

(i) informing him that the authority are proposing to make an application under subsection (5),

(ii) setting out the reasons why they propose to do so,

(iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and

(iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;

(b) that period must have expired; and

(c) the authority must have considered any representations made to them within that period by the appropriate person.

(8) If the application is made by an occupier of a part of the HMO, the tribunal must be satisfied as to the following matters—

(a) that the appropriate person has been convicted of an offence under section 72(1) in relation to the HMO, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of a part or parts of the HMO,

(b) that the occupier paid, to a person having control of or managing the HMO, periodical payments in respect of occupation of part of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO, and

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(c) that the application is made within the period of 12 months beginning with—

(i) the date of the conviction or order, or

(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

(9) Where a local housing authority serve a notice of intended proceedings on any person under this section, they must ensure—

(a) that a copy of the notice is received by the department of the authority responsible for administering the housing benefit to which the proceedings would relate; and

(b) that that department is subsequently kept informed of any matters relating to the proceedings that are likely to be of interest to it in connection with the administration of housing benefit.

(10) In this section—

"the appropriate person", in relation to any payment of housing benefit or periodical payment payable in connection with occupation of a part of an HMO, means the person who at the time of the payment was entitled to receive on his own account periodical payments payable in connection with such occupation;

"housing benefit" means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (c. 4);

"occupier", in relation to any periodical payment, means a person who was an occupier at the time of the payment, whether under a tenancy or licence or otherwise (and "occupation" has a corresponding meaning);

"periodical payments" means periodical payments in respect of which housing benefit may be paid by virtue of regulation 10 of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) or any corresponding provision replacing that regulation.

(11) For the purposes of this section an amount which—

(a) is not actually paid by an occupier but is used by him to discharge the whole or part of his liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and

(b) is not an amount of housing benefit,

is to be regarded as an amount paid by the occupier in respect of that periodical payment.

Commencement Information

I71 S. 73 wholly in force at 16.6.2006; s. 73 not in force at Royal Assent see s. 270(4)(5); s. 73 in force for E. at 6.7.2006 by S.I. 2006/1060, **art. 2(2)(a)** (with Sch.); s. 73 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

74 Further provisions about rent repayment orders

(1) This section applies in relation to rent repayment orders made by residential property tribunals under section 73(5).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) Where, on an application by the local housing authority, the tribunal is satisfied—

(a) that a person has been convicted of an offence under section 72(1) in relation to the HMO, and

(b) that housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with occupation of a part or parts of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority an amount equal to the total amount of housing benefit paid as mentioned in paragraph (b).

This is subject to subsections (3), (4) and (8).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (2) ("the rent total") is less than the total amount of housing benefit paid as mentioned in that paragraph, the amount required to be paid by virtue of a rent repayment order made in accordance with that subsection is limited to the rent total.

(4) A rent repayment order made in accordance with subsection (2) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(5) In a case where subsection (2) does not apply, the amount required to be paid by virtue of a rent repayment order under section 73(5) is to be such amount as the tribunal considers reasonable in the circumstances.

This is subject to subsections (6) to (8).

(6) In such a case the tribunal must, in particular, take into account the following matters—

(a) the total amount of relevant payments paid in connection with occupation of the HMO during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the HMO under section 72(1);

(b) the extent to which that total amount—

(i) consisted of, or derived from, payments of housing benefit, and

(ii) was actually received by the appropriate person;

(c) whether the appropriate person has at any time been convicted of an offence under section 72(1) in relation to the HMO;

(d) the conduct and financial circumstances of the appropriate person; and

(e) where the application is made by an occupier, the conduct of the occupier.

(7) In subsection (6) "relevant payments" means—

(a) in relation to an application by a local housing authority, payments of housing benefit or periodical payments payable by occupiers;

(b) in relation to an application by an occupier, periodical payments payable by the occupier, less any amount of housing benefit payable in respect of occupation of the part of the HMO occupied by him during the period in question.

(8) A rent repayment order may not require the payment of any amount which—

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(a) (where the application is made by a local housing authority) is in respect of any time falling outside the period of 12 months mentioned in section 73(6)(a); or

(b) (where the application is made by an occupier) is in respect of any time falling outside the period of 12 months ending with the date of the occupier's application under section 73(5);

and the period to be taken into account under subsection (6)(a) above is restricted accordingly.

(9) Any amount payable to a local housing authority under a rent repayment order—

(a) does not, when recovered by the authority, constitute an amount of housing benefit recovered by them, and

(b) until recovered by them, is a legal charge on the HMO which is a local land charge.

(10) For the purpose of enforcing that charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, and of accepting surrenders of leases and of appointing a receiver.

(11) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.

(12) If the authority subsequently grant a licence under this Part or Part 3 in respect of the HMO to the appropriate person or any person acting on his behalf, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to pay to the authority any amount payable to them under the rent repayment order and not so far recovered by them; and

(b) to do so in such instalments as are specified in the licence.

(13) If the authority subsequently make a management order under Chapter 1 of Part 4 in respect of the HMO, the order may contain such provisions as the authority consider appropriate for the recovery of any amount payable to them under the rent repayment order and not so far recovered by them.

(14) Any amount payable to an occupier by virtue of a rent repayment order is recoverable by the occupier as a debt due to him from the appropriate person.

(15) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of this section and section 73, and in particular—

(a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of housing benefit or otherwise);

(b) for requiring or authorising amounts received by local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

(16) Section 73(10) and (11) apply for the purposes of this section as they apply for the purposes of section 73.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I72 S. 74 wholly in force at 16.6.2006; s. 74 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 74 in force for E. at 6.7.2006 by S.I. 2006/1060, **art. 2(2)(b)** (with Sch.); s. 74 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

75 Other consequences of operating unlicensed HMOs: restriction on terminating tenancies

(1) No section 21 notice may be given in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains such an HMO.

(2) In this section—

a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (c. 50) (recovery of possession on termination of shorthold tenancy);

a "shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of that Act;

"unlicensed HMO" has the same meaning as in section 73 of this Act.

Commencement Information

I73 S. 75 wholly in force at 16.6.2006; s. 75 not in force at Royal Assent see s. 270(4)(5); s. 75 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 75 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Supplementary provisions

76 Transitional arrangements relating to introduction and termination of licensing

(1) Subsection (2) applies where—

(a) an order under section 55(3) which prescribes a particular description of HMOs comes into force; or

(b) a designation under section 56 comes into force in relation to HMOs of a particular description.

(2) This Part applies in relation to the occupation by persons or households of such HMOs on or after the coming into force of the order or designation even if their occupation began before, or in pursuance of a contract made before, it came into force.

This is subject to subsections (3) to (5).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(3) Subsection (4) applies where—

(a) an HMO which is licensed under this Part, or a part of such an HMO, is occupied by more households or persons than the number permitted by the licence; and

(b) the occupation of all or any of those households or persons began before, or in pursuance of a contract made before, the licence came into force.

(4) In proceedings against a person for an offence under section 72(2) it is a defence that at the material time he was taking all reasonable steps to try to reduce the number of households or persons occupying the house to the number permitted by the licence.

(5) Subsection (4) does not apply if the licence came into force immediately after a previous licence in respect of the same HMO unless the occupation in question began before, or in pursuance of a contract made before, the coming into force of the original licence.

(6) An order under section 270 may make provision as regards the licensing under this Part of HMOs—

(a) which are registered immediately before the appointed day under a scheme to which section 347 (schemes containing control provisions) or 348B (schemes containing special control provisions) of the Housing Act 1985 (c. 68) applies, or

(b) in respect of which applications for registration under such a scheme are then pending.

(7) In subsection (6) "the appointed day" means the day appointed for the coming into force of section 61.

Commencement Information

I74 S. 76 wholly in force at 16.6.2006; s. 76 not in force at Royal Assent see s. 270(4)(5); s. 76 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 76 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

77 Meaning of "HMO"

In this Part—

(a) "HMO" means a house in multiple occupation as defined by sections 254 to 259, and

(b) references to an HMO include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

Commencement Information

I75 S. 77 wholly in force at 16.6.2006; s. 77 not in force at Royal Assent see s. 270(4)(5); s. 77 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 77 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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78 Index of defined expressions: Part 2

The following table shows where expressions used in this Part are defined or otherwise explained.

Expression	*Provision of this Act*
Anti-social behaviour	Section 57(5)
Appropriate national authority	Section 261(1)
Category 1 hazard	Section 2(1)
Category 2 hazard	Section 2(1)
District of local housing authority	Section 261(6)
HMO	Section 77
HMO to which this Part applies	Section 55(2)
Licence and licence holder	Section 61(6)
Licence (to occupy premises)	Section 262(9)
Local housing authority	Section 261(2) to (5)
Modifications	Section 250(7)
Occupier (and related expressions)	Section 262(6)
Person having control	Section 263(1) and (2) (and see also section 66(7))
Person having estate or interest	Section 262(8)
Person managing	Section 263(3)
Person involved in management	Section 263(5)
Residential property tribunal	Section 229
Tenant	Section 262(1) to (5).

Commencement Information

I76 S. 78 wholly in force at 16.6.2006; s. 78 not in force at Royal Assent see s. 270(4)(5); s. 78 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 78 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

PART 3

SELECTIVE LICENSING OF OTHER RESIDENTIAL ACCOMMODATION

Introductory

79 Licensing of houses to which this Part applies

(1) This Part provides for houses to be licensed by local housing authorities where—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) they are houses to which this Part applies (see subsection (2)), and
(b) they are required to be licensed under this Part (see section 85(1)).

(2) This Part applies to a house if—
(a) it is in an area that is for the time being designated under section 80 as subject to selective licensing, and
(b) the whole of it is occupied either—
(i) under a single tenancy or licence that is not an exempt tenancy or licence under subsection (3) or (4), or
(ii) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under subsection (3) or (4).

(3) A tenancy or licence is an exempt tenancy or licence if it is granted by a body which is registered as a social landlord under Part 1 of the Housing Act 1996 (c. 52).

(4) In addition, the appropriate national authority may by order provide for a tenancy or licence to be an exempt tenancy or licence—
(a) if it falls within any description of tenancy or licence specified in the order; or
(b) in any other circumstances so specified.

(5) Every local housing authority have the following general duties—
(a) to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part; and
(b) to ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time.

Commencement Information
I77 S. 79 wholly in force at 25.11.2005; s. 79 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 79 in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(c)**; s. 79 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(d)**

Designation of selective licensing areas

80 Designation of selective licensing areas

(1) A local housing authority may designate either—
(a) the area of their district, or
(b) an area in their district,
as subject to selective licensing, if the requirements of subsections (2) and (9) are met.

(2) The authority must consider that—
(a) the first or second set of general conditions mentioned in subsection (3) or (6), or
(b) any conditions specified in an order under subsection (7) as an additional set of conditions,
are satisfied in relation to the area.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(3) The first set of general conditions are—

(a) that the area is, or is likely to become, an area of low housing demand; and

(b) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to the improvement of the social or economic conditions in the area.

(4) In deciding whether an area is, or is likely to become, an area of low housing demand a local housing authority must take into account (among other matters)—

(a) the value of residential premises in the area, in comparison to the value of similar premises in other areas which the authority consider to be comparable (whether in terms of types of housing, local amenities, availability of transport or otherwise);

(b) the turnover of occupiers of residential premises;

(c) the number of residential premises which are available to buy or rent and the length of time for which they remain unoccupied.

(5) The appropriate national authority may by order amend subsection (4) by adding new matters to those for the time being mentioned in that subsection.

(6) The second set of general conditions are—

(a) that the area is experiencing a significant and persistent problem caused by anti-social behaviour;

(b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and

(c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.

"Private sector landlord" does not include a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52).

(7) The appropriate national authority may by order provide for any conditions specified in the order to apply as an additional set of conditions for the purposes of subsection (2).

(8) The conditions that may be specified include, in particular, conditions intended to permit a local housing authority to make a designation for the purpose of dealing with one or more specified problems affecting persons occupying Part 3 houses in the area.

"Specified" means specified in an order under subsection (7).

(9) Before making a designation the local housing authority must—

(a) take reasonable steps to consult persons who are likely to be affected by the designation; and

(b) consider any representations made in accordance with the consultation and not withdrawn.

(10) Section 81 applies for the purposes of this section.

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Commencement Information

I78 S. 80 wholly in force at 25.11.2005; s. 80 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 80 in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(c)**; s. 80 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(d)**

VALID FROM 15/06/2005

81 Designations under section 80: further considerations

(1) This section applies to the power of a local housing authority to make designations under section 80.

(2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy.

(3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour, both—

(a) as regards combining licensing under this Part with other courses of action available to them, and

(b) as regards combining such licensing with measures taken by other persons.

(4) The authority must not make a particular designation under section 80 unless—

(a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and

(b) they consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).

Commencement Information

I79 S. 81 wholly in force at 25.11.2005; s. 81 not force at Royal Assent see s. 270(4)(5); s. 81 in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(d)**; s. 81 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(e)**

VALID FROM 06/04/2006

82 Designation needs confirmation or general approval to be effective

(1) A designation of an area as subject to selective licensing cannot come into force unless—

(a) it has been confirmed by the appropriate national authority; or

(b) it falls within a description of designations in relation to which that authority has given a general approval in accordance with subsection (6).

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(2) The appropriate national authority may either confirm, or refuse to confirm, a designation as it considers appropriate.

(3) If the appropriate national authority confirms a designation, the designation comes into force on a date specified for this purpose by that authority.

(4) That date must be no earlier than three months after the date on which the designation is confirmed.

(5) A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.

(6) Accordingly a general approval may (in particular) be given in relation to—
- (a) designations made by a specified local housing authority;
- (b) designations made by a local housing authority falling within a specified description of such authorities;
- (c) designations relating to Part 3 houses of a specified description.

"Specified" means specified by the appropriate national authority in the approval.

(7) If, by virtue of a general approval, a designation does not need to be confirmed before it comes into force, the designation comes into force on the date specified for this purpose in the designation.

(8) That date must be no earlier than three months after the date on which the designation is made.

(9) Where a designation comes into force, this Part applies in relation to the occupation by persons of houses in the area on or after the coming into force of the designation even if their occupation began before, or in pursuance of a contract made before, it came into force.

Commencement Information

I80 S. 82 wholly in force at 16.6.2006; s. 82 not in force at Royal Assent see s. 270(4)(5); s. 82 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 82 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

83 Notification requirements relating to designations

(1) This section applies to a designation—
- (a) when it is confirmed under section 82, or
- (b) (if it is not required to be so confirmed) when it is made by the local housing authority.

(2) As soon as the designation is confirmed or made, the authority must publish in the prescribed manner a notice stating—
- (a) that the designation has been made,
- (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 82 applied to it (giving details of the approval in question),
- (c) the date on which the designation is to come into force, and

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(d) any other information which may be prescribed.

(3) After publication of a notice under subsection (2), and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements—

(a) copies of the designation, and

(b) such information relating to the designation as is prescribed.

(4) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

Commencement Information

I81 S. 83 wholly in force at 16.6.2006; s. 83 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 83 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 83 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

84 Duration, review and revocation of designations

(1) Unless previously revoked under subsection (4), a designation ceases to have effect at the time that is specified for this purpose in the designation.

(2) That time must be no later than five years after the date on which the designation comes into force.

(3) A local housing authority must from time to time review the operation of any designation made by them.

(4) If following a review they consider it appropriate to do so, the authority may revoke the designation.

(5) If they do revoke the designation, the designation ceases to have effect on the date that is specified by the authority for this purpose.

(6) On revoking a designation, the authority must publish notice of the revocation in such manner as is prescribed by regulations made by the appropriate national authority.

Commencement Information

I82 S. 84 wholly in force at 16.6.2006; s. 84 not in force at Royal Assent see s. 270(2)(b); s. 84 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 84 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Houses required to be licensed

85 Requirement for Part 3 houses to be licensed

(1) Every Part 3 house must be licensed under this Part unless—

(a) it is an HMO to which Part 2 applies (see section 55(2)), or

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(b) a temporary exemption notice is in force in relation to it under section 86, or
(c) a management order is in force in relation to it under Chapter 1 or 2 of Part 4.

(2) A licence under this Part is a licence authorising occupation of the house concerned under one or more tenancies or licences within section 79(2)(b).

(3) Sections 87 to 90 deal with applications for licences, the granting or refusal of licences and the imposition of licence conditions.

(4) The local housing authority must take all reasonable steps to secure that applications for licences are made to them in respect of houses in their area which are required to be licensed under this Part but are not so licensed.

(5) In this Part, unless the context otherwise requires—
(a) references to a Part 3 house are to a house to which this Part applies (see section 79(2)),
(b) references to a licence are to a licence under this Part,
(c) references to a licence holder are to be read accordingly, and
(d) references to a house being (or not being) licensed under this Part are to its being (or not being) a house in respect of which a licence is in force under this Part.

Commencement Information

I83 S. 85 wholly in force at 16.6.2006; s. 85 not in force at Royal Assent see s. 270(4)(5); s. 85 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 85 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

86 Temporary exemption from licensing requirement

(1) This section applies where a person having control of or managing a Part 3 house which is required to be licensed under this Part (see section 85(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed.

(2) The authority may, if they think fit, serve on that person a notice under this section ("a temporary exemption notice") in respect of the house.

(3) If a temporary exemption notice is served under this section, the house is (in accordance with section 85(1)) not required to be licensed under this Part during the period for which the notice is in force.

(4) A temporary exemption notice under this section is in force—
(a) for the period of 3 months beginning with the date on which it is served, or
(b) (in the case of a notice served by virtue of subsection (5)) for the period of 3 months after the date when the first notice ceases to be in force.

(5) If the authority—
(a) receive a further notification under subsection (1), and
(b) consider that there are exceptional circumstances that justify the service of a second temporary exemption notice in respect of the house that would take effect from the end of the period of 3 months applying to the first notice,

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the authority may serve a second such notice on the person having control of or managing the house (but no further notice may be served by virtue of this subsection).

(6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of—
- (a) the decision,
- (b) the reasons for it and the date on which it was made,
- (c) the right to appeal against the decision under subsection (7), and
- (d) the period within which an appeal may be made under that subsection.

(7) The person concerned may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made.

(8) Such an appeal—
- (a) is to be by way of a re-hearing, but
- (b) may be determined having regard to matters of which the authority were unaware.

(9) The tribunal—
- (a) may confirm or reverse the decision of the authority, and
- (b) if it reverses the decision, must direct the authority to issue a temporary exemption notice with effect from such date as the tribunal directs.

Commencement Information

I84 S. 86 wholly in force at 16.6.2006; s. 86 not in force at Royal Assent see s. 270(4)(5); s. 86 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 86 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

Grant or refusal of licences

87 Applications for licences

(1) An application for a licence must be made to the local housing authority.

(2) The application must be made in accordance with such requirements as the authority may specify.

(3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.

(4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).

(5) The appropriate national authority may by regulations make provision about the making of applications under this section.

(6) Such regulations may, in particular—
- (a) specify the manner and form in which applications are to be made;

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(b) require the applicant to give copies of the application, or information about it, to particular persons;

(c) specify the information which is to be supplied in connection with applications;

(d) specify the maximum fees which may be charged (whether by specifying amounts or methods for calculating amounts);

(e) specify cases in which no fees are to be charged or fees are to be refunded.

(7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—

(a) all costs incurred by the authority in carrying out their functions under this Part, and

(b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).

Commencement Information

I85 S. 87 wholly in force at 16.6.2006; s. 87 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 87 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 87 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

88 Grant or refusal of licence

(1) Where an application in respect of a house is made to the local housing authority under section 87, the authority must either—

(a) grant a licence in accordance with subsection (2), or

(b) refuse to grant a licence.

(2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—

(a) to the applicant, or

(b) to some other person, if both he and the applicant agree.

(3) The matters are—

(a) that the proposed licence holder—

(i) is a fit and proper person to be the licence holder, and

(ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;

(b) that the proposed manager of the house is either—

(i) the person having control of the house, or

(ii) a person who is an agent or employee of the person having control of the house;

(c) that the proposed manager of the house is a fit and proper person to be the manager of the house; and

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(d) that the proposed management arrangements for the house are otherwise satisfactory.

(4) Section 89 applies for the purposes of this section.

Commencement Information

I86 S. 88 wholly in force at 16.6.2006; s. 88 not in force at Royal Assent see s. 270(4)(5); s. 88 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 88 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

89 Tests for fitness etc. and satisfactory management arrangements

(1) In deciding for the purposes of section 88(3)(a) or (c) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—

(a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);

(b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; or

(c) contravened any provision of the law relating to housing or of landlord and tenant law.

(3) Evidence is within this subsection if—

(a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (c), and

(b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

(4) For the purposes of section 88(3)(a) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

(5) In deciding for the purposes of section 88(3)(d) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

(6) The considerations are—

(a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;

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(b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and

(c) whether any proposed management structures and funding arrangements are suitable.

(7) Any reference in section 88(3)(b)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

Commencement Information

I87 S. 89 wholly in force at 16.6.2006; s. 89 not in force at Royal Assent see s. 270(4)(5); s. 89 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 89 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

90 Licence conditions

(1) A licence may include such conditions as the local housing authority consider appropriate for regulating the management, use or occupation of the house concerned.

(2) Those conditions may, in particular, include (so far as appropriate in the circumstances)—

(a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;

(b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house.

(3) A licence may also include—

(a) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed for the purposes of this section by regulations made by the appropriate national authority;

(b) conditions requiring such facilities and equipment to be kept in repair and proper working order;

(c) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence.

(4) A licence must include the conditions required by Schedule 4.

(5) As regards the relationship between the authority's power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 ("Part 1 functions")—

(a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;

(b) this does not, however, prevent the authority from imposing (in accordance with subsection (3)) licence conditions relating to the installation or

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maintenance of facilities or equipment within subsection (3)(a) above, even if the same result could be achieved by the exercise of Part 1 functions;

(c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.

(6) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.

(7) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house.

Commencement Information

I88 S. 90 wholly in force at 16.6.2006; s. 90 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 90 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 90 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

91 Licences: general requirements and duration

(1) A licence may not relate to more than one Part 3 house.

(2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.

(3) A licence—

(a) comes into force at the time that is specified in or determined under the licence for this purpose, and

(b) unless previously terminated by subsection (7) or revoked under section 93, continues in force for the period that is so specified or determined.

(4) That period must not end more than 5 years after—

(a) the date on which the licence was granted, or

(b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.

(5) Subsection (3)(b) applies even if, at any time during that period, the house concerned subsequently ceases to be a Part 3 house or becomes an HMO to which Part 2 applies (see section 55(2)).

(6) A licence may not be transferred to another person.

(7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

(8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part as if on that date a temporary exemption notice had been served in respect of the house under section 86.

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(9) If, at any time during that period ("the initial period"), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 86.

(10) Subsections (6) to (8) of section 86 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice.

Commencement Information

I89 S. 91 wholly in force at 16.6.2006; s. 91 not in force at Royal Assent see s. 270(4)(5); s. 91 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 91 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Variation and revocation of licences

VALID FROM 06/04/2006

92 Variation of licences

(1) The local housing authority may vary a licence—
- (a) if they do so with the agreement of the licence holder, or
- (b) if they consider that there has been a change of circumstances since the time when the licence was granted.

For this purpose "change of circumstances" includes any discovery of new information.

(2) A variation made with the agreement of the licence holder takes effect at the time when it is made.

(3) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(4) The power to vary a licence under this section is exercisable by the authority either—
- (a) on an application made by the licence holder or a relevant person, or
- (b) on the authority's own initiative.

(5) In subsection (4) "relevant person" means any person (other than the licence holder)—
- (a) who has an estate or interest in the house concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
- (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(c) on whom any restriction or obligation is imposed by the licence in accordance with section 90(6).

Commencement Information

I90 S. 92 wholly in force at 16.6.2006; s. 92 not in force at Royal Assent see s. 270(4)(5); s. 92 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 92 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

93 Revocation of licences

(1) The local housing authority may revoke a licence—

(a) if they do so with the agreement of the licence holder,

(b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holder or other person),

(c) in any of the cases mentioned in subsection (3) (circumstances relating to house concerned), or

(d) in any other circumstances prescribed by regulations made by the appropriate national authority.

(2) The cases referred to in subsection (1)(b) are as follows—

(a) where the authority consider that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;

(b) where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and

(c) where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.

Section 89(1) applies in relation to paragraph (b) or (c) above as it applies in relation to section 88(3)(a) or (c).

(3) The cases referred to in subsection (1)(c) are as follows—

(a) where the house to which the licence relates ceases to be a Part 3 house;

(b) where a licence has been granted under Part 2 in respect of the house;

(c) where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the house, refuse to grant a new licence to the licence holder on similar terms in respect of it.

(4) A revocation made with the agreement of the licence holder takes effect at the time when it is made.

(5) Otherwise, a revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

This is subject to subsection (6).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(6) A revocation made in a case within subsection (3)(b) cannot come into force before such time as would be the operative time for the purposes of subsection (5) under paragraph 35 of Schedule 5 on the assumption that paragraph 35 applied—

(a) to an appeal against the Part 2 licence under paragraph 31 of the Schedule as it applies to an appeal under paragraph 32 of the Schedule, and

(b) to the period for appealing against the Part 2 licence mentioned in paragraph 33(1) of the Schedule as it applies to the period mentioned in paragraph 33(2) of the Schedule.

(7) The power to revoke a licence under this section is exercisable by the authority either—

(a) on an application made by the licence holder or a relevant person, or

(b) on the authority's own initiative.

(8) In subsection (7) "relevant person" means any person (other than the licence holder)—

(a) who has an estate or interest in the house concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or

(b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or

(c) on whom any restriction or obligation is imposed by the licence in accordance with section 90(6).

Commencement Information

I91 S. 93 wholly in force at 16.6.2006; s. 93 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 93 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 93 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Procedure and appeals

94 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part.

Commencement Information

I92 S. 94 wholly in force at 16.6.2006; s. 94 not in force at Royal Assent see s. 270(4)(5); s. 94 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 94 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Enforcement

VALID FROM 06/04/2006

95 Offences in relation to licensing of houses under this Part

(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

(2) A person commits an offence if—
- (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and
- (b) he fails to comply with any condition of the licence.

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
- (a) a notification had been duly given in respect of the house under section 62(1) or 86(1), or
- (b) an application for a licence had been duly made in respect of the house under section 87,

and that notification or application was still effective (see subsection (7)).

(4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse—
- (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
- (b) for failing to comply with the condition,

as the case may be.

(5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £20,000.

(6) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) For the purposes of subsection (3) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either—
- (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
- (b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.

(8) The conditions are—
- (a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of a residential property tribunal) has not expired, or
- (b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(9) In subsection (8) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Commencement Information

I93 S. 95 wholly in force at 16.6.2006; s. 95 not in force at Royal Assent see s. 270(4)(5); s. 95(2)(4)(6) in force for E. at 6.4.2006 and s. 95 in force for E. in so far as not already in force at 6.7.2006 by S.I. 2006/1060, **art. 2(1)(c)(2)(b)** (with Sch.); s. 95 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/07/2006

96 Other consequences of operating unlicensed houses: rent repayment orders

(1) For the purposes of this section a house is an "unlicensed house" if—
- (a) it is required to be licensed under this Part but is not so licensed, and
- (b) neither of the conditions in subsection (2) is satisfied.

(2) The conditions are—
- (a) that a notification has been duly given in respect of the house under section 62(1) or 86(1) and that notification is still effective (as defined by section 95(7));
- (b) that an application for a licence has been duly made in respect of the house under section 87 and that application is still effective (as so defined).

(3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
- (a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of the whole or a part of an unlicensed house, or
- (b) any other provision of such a tenancy or licence.

(4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 97.

(5) If—
- (a) an application in respect of a house is made to a residential property tribunal by the local housing authority or an occupier of the whole or part of the house, and
- (b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8),

the tribunal may make an order (a "rent repayment order") requiring the appropriate person to pay to the applicant such amount in respect of the housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 97(2) to (8)).

(6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—

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(a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 95(1) in relation to the house (whether or not he has been charged or convicted),

(b) that housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of the whole or any part or parts of the house during any period during which it appears to the tribunal that such an offence was being committed, and

(c) that the requirements of subsection (7) have been complied with in relation to the application.

(7) Those requirements are as follows—

(a) the authority must have served on the appropriate person a notice (a "notice of intended proceedings")—

(i) informing him that the authority are proposing to make an application under subsection (5),

(ii) setting out the reasons why they propose to do so,

(iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and

(iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;

(b) that period must have expired; and

(c) the authority must have considered any representations made to them within that period by the appropriate person.

(8) If the application is made by an occupier of the whole or part of the house, the tribunal must be satisfied as to the following matters—

(a) that the appropriate person has been convicted of an offence under section 95(1) in relation to the house, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of the whole or any part or parts of the house,

(b) that the occupier paid, to a person having control of or managing the house, periodical payments in respect of occupation of the whole or part of the house during any period during which it appears to the tribunal that such an offence was being committed in relation to the house, and

(c) that the application is made within the period of 12 months beginning with—

(i) the date of the conviction or order, or

(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

(9) Where a local housing authority serve a notice of intended proceedings on any person under this section, they must ensure—

(a) that a copy of the notice is received by the department of the authority responsible for administering the housing benefit to which the proceedings would relate; and

(b) that that department is subsequently kept informed of any matters relating to the proceedings that are likely to be of interest to it in connection with the administration of housing benefit.

(10) In this section—

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"the appropriate person", in relation to any payment of housing benefit or periodical payment payable in connection with occupation of the whole or a part of a house, means the person who at the time of the payment was entitled to receive on his own account periodical payments payable in connection with such occupation;

"housing benefit" means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (c. 4);

"occupier", in relation to any periodical payment, means a person who was an occupier at the time of the payment, whether under a tenancy or licence (and "occupation" has a corresponding meaning);

"periodical payments" means periodical payments in respect of which housing benefit may be paid by virtue of regulation 10 of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) or any corresponding provision replacing that regulation.

(11) For the purposes of this section an amount which—

(a) is not actually paid by an occupier but is used by him to discharge the whole or part of his liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and

(b) is not an amount of housing benefit,

is to be regarded as an amount paid by the occupier in respect of that periodical payment.

Commencement Information

I94 S. 96 wholly in force at 16.6.2006; s. 96 not in force at Royal Assent see s. 270(4)(5); s. 96 in force for E. at 6.7.2006 by S.I. 2006/1060, **art. 2(2)(a)** (with Sch.); s. 96 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

97 Further provisions about rent repayment orders

(1) This section applies in relation to orders made by residential property tribunals under section 96(5).

(2) Where, on an application by the local housing authority, the tribunal is satisfied—

(a) that a person has been convicted of an offence under section 95(1) in relation to the house, and

(b) that housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with occupation of the whole or any part or parts of the house during any period during which it appears to the tribunal that such an offence was being committed in relation to the house,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority an amount equal to the total amount of housing benefit paid as mentioned in paragraph (b).

This is subject to subsections (3), (4) and (8).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (2) ("the rent total") is

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less than the total amount of housing benefit paid as mentioned in that paragraph, the amount required to be paid by virtue of a rent repayment order made in accordance with that subsection is limited to the rent total.

(4) A rent repayment order made in accordance with subsection (2) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(5) In a case where subsection (2) does not apply, the amount required to be paid by virtue of a rent repayment order under section 96(5) is to be such amount as the tribunal considers reasonable in the circumstances.

This is subject to subsections (6) to (8).

(6) In such a case the tribunal must, in particular, take into account the following matters—

(a) the total amount of relevant payments paid in connection with occupation of the house during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the house under section 95(1);

(b) the extent to which that total amount—

(i) consisted of, or derived from, payments of housing benefit, and

(ii) was actually received by the appropriate person;

(c) whether the appropriate person has at any time been convicted of an offence under section 95(1) in relation to the house;

(d) the conduct and financial circumstances of the appropriate person; and

(e) where the application is made by an occupier, the conduct of the occupier.

(7) In subsection (6) "relevant payments" means—

(a) in relation to an application by a local housing authority, payments of housing benefit or periodical payments payable by occupiers;

(b) in relation to an application by an occupier, periodical payments payable by the occupier, less any amount of housing benefit payable in respect of occupation of the house, or (as the case may be) the part of it occupied by him, during the period in question.

(8) A rent repayment order may not require the payment of an amount which—

(a) (where the application is made by a local housing authority) is in respect of any time falling outside the period of 12 months mentioned in section 96(6)(a); or

(b) (where the application is made by an occupier) is in respect of any time falling outside the period of 12 months ending with the date of the occupier's application under section 96(5);

and the period to be taken into account under subsection (6)(a) above is restricted accordingly.

(9) Any amount payable to a local housing authority under a rent repayment order—

(a) does not, when recovered by the authority, constitute an amount of housing benefit recovered by them, and

(b) is, until recovered by them, a legal charge on the house which is a local land charge.

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(10) For the purpose of enforcing that charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, and of accepting surrenders of leases and of appointing a receiver.

(11) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.

(12) If the authority subsequently grant a licence under Part 2 or this Part in respect of the house to the appropriate person or any person acting on his behalf, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to pay to the authority any amount payable to them under the rent repayment order and not so far recovered by them; and

(b) to do so in such instalments as are specified in the licence.

(13) If the authority subsequently make a management order under Chapter 1 of Part 4 in respect of the house, the order may contain such provisions as the authority consider appropriate for the recovery of any amount payable to them under the rent repayment order and not so far recovered by them.

(14) Any amount payable to an occupier by virtue of a rent repayment order is recoverable by the occupier as a debt due to him from the appropriate person.

(15) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of this section and section 96, and in particular—

(a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of housing benefit or otherwise);

(b) for requiring or authorising amounts received by local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

(16) Section 96(10) and (11) apply for the purposes of this section as they apply for the purposes of section 96.

Commencement Information

I95 S. 97 wholly in force at 16.6.2006; s. 97 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 97 in force for E. at 6.7.2006 by S.I. 2006/1060, **art. 2(2)(b)** (with Sch.); s. 97 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

98 Other consequences of operating unlicensed houses: restriction on terminating tenancies

(1) No section 21 notice may be given in relation to a shorthold tenancy of the whole or part of an unlicensed house so long as it remains such a house.

(2) In this section—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (c. 50) (recovery of possession on termination of shorthold tenancy);

a "shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of that Act;

"unlicensed house" has the same meaning as in section 96 of this Act.

Commencement Information

I96 S. 98 wholly in force at 16.6.2006; s. 98 not in force at Royal Assent see s. 270(4)(5); s. 98 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 98 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Supplementary provisions

99 Meaning of "house" etc.

In this Part—

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;

"house" means a building or part of a building consisting of one or more dwellings;

and references to a house include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

Commencement Information

I97 S. 99 wholly in force at 16.6.2006; s. 99 not in force at Royal Assent see s. 270(4)(5); s. 99 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 99 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

100 Index of defined expressions: Part 3

The following table shows where expressions used in this Part are defined or otherwise explained.

Expression	*Provision of this Act*
Anti-social behaviour	Section 57(5)
Appropriate national authority	Section 261(1)
Category 1 hazard	Section 2(1)
Category 2 hazard	Section 2(1)
District of local housing authority	Section 261(6)

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Dwelling	Section 99
House	Section 99
Licence and licence holder	Section 85(5)
Licence (to occupy premises)	Section 262(9)
Local housing authority	Section 261(2) to (5)
Occupier (and related expressions)	Section 262(6)
Part 3 house	Section 85(5), together with section 79(2)
Person having control	Section 263(1) and (2) (and see also section 89(7))
Person having estate or interest	Section 262(8)
Person managing	Section 263(3)
Person involved in management	Section 263(5)
Residential property tribunal	Section 229
Tenant	Section 262(1) to (5).

Commencement Information

I98 S. 100 wholly in force at 16.6.2006; s. 100 not in force at Royal Assent see s. 270(4)(5); s. 100 in force for E. at 6.4.2006 by S. I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 100 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

CHAPTER 1

INTERIM AND FINAL MANAGEMENT ORDERS

VALID FROM 06/04/2006

Introductory

101 Interim and final management orders: introductory

(1) This Chapter deals with the making by a local housing authority of—

(a) an interim management order (see section 102), or

(b) a final management order (see section 113),

in respect of an HMO or a Part 3 house.

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(2) Section 103 deals with the making of an interim management order in respect of a house to which that section applies.

(3) An interim management order is an order (expiring not more than 12 months after it is made) which is made for the purpose of securing that the following steps are taken in relation to the house—

(a) any immediate steps which the authority consider necessary to protect the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity, and

(b) any other steps which the authority think appropriate with a view to the proper management of the house pending the grant of a licence under Part 2 or 3 in respect of the house or the making of a final management order in respect of it (or, if appropriate, the revocation of the interim management order).

(4) A final management order is an order (expiring not more than 5 years after it is made) which is made for the purpose of securing the proper management of the house on a long-term basis in accordance with a management scheme contained in the order.

(5) In this Chapter any reference to "the house", in relation to an interim or final management order (other than an order under section 102(7)), is a reference to the HMO or Part 3 house to which the order relates.

(6) Subsection (5) has effect subject to sections 102(8) and 113(7) (exclusion of part occupied by resident landlord).

(7) In this Chapter "third party", in relation to a house, means any person who has an estate or interest in the house (other than an immediate landlord and any person who is a tenant under a lease granted under section 107(3)(c) or 116(3)(c)).

Commencement Information

I99 S. 101 wholly in force at 16.6.2006; s. 101 not in force at Royal Assent see s. 270(4)(5); s. 101 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 101 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Interim management orders: making and operation of orders

VALID FROM 06/04/2006

102 Making of interim management orders

(1) A local housing authority—

(a) are under a duty to make an interim management order in respect of a house in a case within subsection (2) or (3), and

(b) have power to make an interim management order in respect of a house in a case within subsection (4) or (7).

(2) The authority must make an interim management order in respect of a house if—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 (see section 61(1) or 85(1)) but is not so licensed, and

(b) they consider either—

(i) that there is no reasonable prospect of its being so licensed in the near future, or

(ii) that the health and safety condition is satisfied (see section 104).

(3) The authority must make an interim management order in respect of a house if—

(a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 and is so licensed,

(b) they have revoked the licence concerned but the revocation is not yet in force, and

(c) they consider either—

(i) that, on the revocation coming into force, there will be no reasonable prospect of the house being so licensed in the near future, or

(ii) that, on the revocation coming into force, the health and safety condition will be satisfied (see section 104).

(4) The authority may make an interim management order in respect of a house if—

(a) it is an HMO other than one that is required to be licensed under Part 2, and

(b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them to make such an order, either in the terms of a draft order submitted by them or in those terms as varied by the tribunal;

and the authority may make such an order despite any pending appeal against the order of the tribunal (but this is without prejudice to any order that may be made on the disposal of any such appeal).

(5) The tribunal may only authorise the authority to make an interim management order under subsection (4) if it considers that the health and safety condition is satisfied (see section 104).

(6) In determining whether to authorise the authority to make an interim management order in respect of an HMO under subsection (4), the tribunal must have regard to the extent to which any applicable code of practice approved under section 233 has been complied with in respect of the HMO in the past.

(7) The authority may make an interim management order in respect of a house if—

(a) it is a house to which section 103 (special interim management orders) applies, and

(b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them to make such an order, either in the terms of a draft order submitted by them or in those terms as varied by the tribunal;

and the authority may make such an order despite any pending appeal against the order of the tribunal (but this is without prejudice to any order that may be made on the disposal of any such appeal).

Subsections (2) to (6) of section 103 apply in relation to the power of a residential property tribunal to authorise the making of an interim management order under this subsection.

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(8) The authority may make an interim management order which is expressed not to apply to a part of the house that is occupied by a person who has an estate or interest in the whole of the house.

In relation to such an order, a reference in this Chapter to "the house" does not include the part so excluded (unless the context requires otherwise, such as where the reference is to the house as an HMO or a Part 3 house).

(9) Nothing in this section requires or authorises the making of an interim management order in respect of a house if—

(a) an interim management order has been previously made in respect of it, and

(b) the authority have not exercised any relevant function in respect of the house at any time after the making of the interim management order.

(10) In subsection (9) "relevant function" means the function of—

(a) granting a licence under Part 2 or 3,

(b) serving a temporary exemption notice under section 62 or section 86, or

(c) making a final management order under section 113.

Commencement Information

I100 S. 102 wholly in force at 16.6.2006; s. 102 not in force at Royal Assent see s. 270(4)(5); s. 102 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 102 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

103 Special interim management orders

(1) This section applies to a house if the whole of it is occupied either—

(a) under a single tenancy or licence that is not an exempt tenancy or licence under section 79(3) or (4), or

(b) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under section 79(3) or (4).

(2) A residential property tribunal may only authorise the authority to make an interim management order in respect of such a house under section 102(7) if it considers that both of the following conditions are satisfied.

(3) The first condition is that the circumstances relating to the house fall within any category of circumstances prescribed for the purposes of this subsection by an order under subsection (5).

(4) The second condition is that the making of the order is necessary for the purpose of protecting the health, safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house.

(5) The appropriate national authority may by order—

(a) prescribe categories of circumstances for the purposes of subsection (3),

(b) provide for any of the provisions of this Act to apply in relation to houses to which this section applies, or interim or final management orders made in respect of them, with any modifications specified in the order.

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(6) The categories prescribed by an order under subsection (5) are to reflect one or more of the following—

(a) the first or second set of general conditions mentioned in subsection (3) or (6) of section 80, or

(b) any additional set of conditions specified under subsection (7) of that section,

but (in each case) with such modifications as the appropriate national authority considers appropriate to adapt them to the circumstances of a single house.

(7) In this section "house" has the same meaning as in Part 3 (see section 99).

(8) In this Chapter—

(a) any reference to "the house", in relation to an interim management order under section 102(7), is a reference to the house to which the order relates, and

(b) any such reference includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

Commencement Information

I101 S. 103 wholly in force at 16.6.2006; s. 103 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 103 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 103 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

104 The health and safety condition

(1) This section explains what "the health and safety condition" is for the purposes of section 102.

(2) The health and safety condition is that the making of an interim management order is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

(3) A threat to evict persons occupying a house in order to avoid the house being required to be licensed under Part 2 may constitute a threat to the welfare of those persons for the purposes of subsection (2).

This does not affect the generality of that subsection.

(4) The health and safety condition is not to be regarded as satisfied for the purposes of section 102(2)(b)(ii) or (3)(c)(ii) where both of the conditions in subsections (5) and (6) are satisfied.

(5) The first condition is that the local housing authority either—

(a) (in a case within section 102(2)(b)(ii)) are required by section 5 (general duty to take enforcement action in respect of category 1 hazards) to take a course of action within subsection (2) of that section in relation to the house, or

(b) (in a case within section 102(3)(c)(ii)) consider that on the revocation coming into force they will be required to take such a course of action.

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(6) The second condition is that the local housing authority consider that the health, safety or welfare of the persons in question would be adequately protected by taking that course of action.

Commencement Information

I102 S. 104 wholly in force at 16.6.2006; s. 104 not in force at Royal Assent see s. 270(4)(5); s. 104 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 104 in force for W. at 16.6.2006 by S. I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

105 Operation of interim management orders

(1) This section deals with the time when an interim management order comes into force or ceases to have effect.

(2) The order comes into force when it is made, unless it is made under section 102(3).

(3) If the order is made under section 102(3), it comes into force when the revocation of the licence comes into force.

(4) The order ceases to have effect at the end of the period of 12 months beginning with the date on which it is made, unless it ceases to have effect at some other time as mentioned below.

(5) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date.

(6) If the order is made under section 102(3)—

(a) it must include a provision for determining the date on which it will cease to have effect, and

(b) it accordingly ceases to have effect on the date so determined.

(7) That date must be no later than 12 months after the date on which the order comes into force.

(8) Subsections (9) and (10) apply where—

(a) a final management order ("the FMO") has been made under section 113 so as to replace the order ("the IMO"), but

(b) the FMO has not come into force because of an appeal to a residential property tribunal under paragraph 24 of Schedule 6 against the making of the FMO.

(9) If—

(a) the house would (but for the IMO being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and

(b) the date on which—

(i) the FMO,

(ii) any licence under Part 2 or 3, or

(iii) another interim management order,

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comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the IMO would cease to have effect apart from this subsection,

the IMO continues in force until that later date.

(10) If, on the application of the authority, the tribunal makes an order providing for the IMO to continue in force, pending the disposal of the appeal, until a date later than that on which the IMO would cease to have effect apart from this subsection, the IMO accordingly continues in force until that later date.

(11) This section has effect subject to sections 111 and 112 (variation or revocation of orders by authority) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 24 or 28 of Schedule 6.

Commencement Information

I103 S. 105 wholly in force at 16.6.2006; s. 105 not in force at Royal Assent see s. 270(4)(5); s. 105 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 105 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

106 Local housing authority's duties once interim management order in force

(1) A local housing authority who have made an interim management order in respect of a house must comply with the following provisions as soon as practicable after the order has come into force.

(2) The authority must first take any immediate steps which they consider to be necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

(3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the house pending—

(a) the grant of a licence or the making of a final management order in respect of the house as mentioned in subsection (4) or (5), or

(b) the revocation of the interim management order as mentioned in subsection (5).

(4) If the house would (but for the order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—

(a) to grant a licence under that Part in respect of the house, or

(b) to make a final management order in respect of it under section 113(1).

(5) If subsection (4) does not apply to the house, the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—

(a) to make a final management order in respect of the house under section 113(3), or

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(b) to revoke the order under section 112 without taking any further action.

(6) In the following provisions, namely—

(a) subsections (3) and (4), and

(b) section 101(3)(b),

the reference to the grant of a licence under Part 2 or 3 in respect of the house includes a reference to serving a temporary exemption notice under section 62 or section 86 in respect of it (whether or not a notification is given under subsection (1) of that section).

(7) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes.

Commencement Information

I104 S. 106 wholly in force at 16.6.2006; s. 106 not in force at Royal Assent see s. 270(4)(5); s. 106 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 106 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

107 General effect of interim management orders

(1) This section applies while an interim management order is in force in relation to a house.

(2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duties under section 106(1) to (3) in respect of the house.

(3) The authority—

(a) have the right to possession of the house (subject to the rights of existing occupiers preserved by section 124(3));

(b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;

(c) may create one or more of the following—

(i) an interest in the house which, as far as possible, has all the incidents of a leasehold, or

(ii) a right in the nature of a licence to occupy part of the house.

(4) But the authority may not under subsection (3)(c) create any interest or right in the nature of a lease or licence unless consent in writing has been given by the person who (but for the order) would have power to create the lease or licence in question.

(5) The authority—

(a) do not under this section acquire any estate or interest in the house, and

(b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest;

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but, where the immediate landlord of the house or part of it (within the meaning of section 109) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.

(6) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—

(a) a lease in relation to which the authority are to be treated as the lessee under subsection (5), or

(b) a lease to which the authority become a party under section 124(4),

as if the authority were the legal owner of the premises (but this is subject to section 124(7) to (9)).

(7) None of the following, namely—

(a) the authority, or

(b) any person authorised under subsection (3)(b),

is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's duties under section 106(1) to (3) unless the act or omission is due to the negligence of the authority or any such person.

(8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which an interim management order is in force.

(9) An interim management order which has come into force is a local land charge.

(10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register of title in respect of such an order.

(11) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Commencement Information

I105 S. 107 wholly in force at 16.6.2006; s. 107 not in force at Royal Assent see s. 270(4)(5); s. 107 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 107 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

108 General effect of interim management orders: leases and licences granted by authority

(1) This section applies in relation to any interest or right created by the authority under section 107(3)(c).

(2) For the purposes of any enactment or rule of law—

(a) any interest created by the authority under section 107(3)(c)(i) is to be treated as if it were a legal lease, and

(b) any right created by the authority under section 107(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the premises,

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despite the fact that the authority have no legal estate in the premises (see section 107(5)(a)).

(3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under section 107(3)(c)(i) as if the authority were the legal owner of the premises.

(4) References to leases and licences—
(a) in this Chapter, and
(b) in any other enactment,
accordingly include (where the context permits) interests and rights created by the authority under section 107(3)(c).

(5) The preceding provisions of this section have effect subject to—
(a) section 124(7) to (9), and
(b) any provision to the contrary contained in an order made by the appropriate national authority.

(6) In section 107(5)(b) the reference to leasing does not include the creation of interests under section 107(3)(c)(i).

(7) In this section—
"enactment" has the meaning given by section 107(11);
"legal lease" means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

Commencement Information

I106 S. 108 wholly in force at 16.6.2006; s. 108 not in force at Royal Assent see s. 270(4)(5); s. 108 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 108 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

109 General effect of interim management orders: immediate landlords, mortgagees etc.

(1) This section applies in relation to—
(a) immediate landlords, and
(b) other persons with an estate or interest in the house,
while an interim management order is in force in relation to a house.

(2) A person who is an immediate landlord of the house or a part of it—
(a) is not entitled to receive—
(i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4), or
(ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any leases or licences granted by them under section 107(3)(c);

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(b) may not exercise any rights or powers with respect to the management of the house or part; and

(c) may not create any of the following—

(i) any leasehold interest in the house or part (other than a lease of a reversion), or

(ii) any licence or other right to occupy it.

(3) However (subject to subsection (2)(c)) nothing in section 107 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.

(4) Nothing in section 107 or this section affects—

(a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or

(b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 107(5)) any rights or remedies available to the lessor under such a lease,

except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under section 107(3)(c).

(5) In proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the interim management order (including an order quashing it).

(6) For the purposes of this Chapter, as it applies in relation to an interim management order, a person is an "immediate landlord" of the house or a part of it if—

(a) he is an owner or lessee of the house or part, and

(b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4).

Commencement Information

I107 S. 109 wholly in force at 16.6.2006; s. 109 not in force at Royal Assent see s. 270(4)(5); s. 109 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 109 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

110 Financial arrangements while order is in force

(1) This section applies to relevant expenditure of a local housing authority who have made an interim management order.

(2) "Relevant expenditure" means expenditure reasonably incurred by the authority in connection with performing their duties under section 106(1) to (3) in respect of the house (including any premiums paid for insurance of the premises).

(3) Rent or other payments which the authority have collected or recovered, by virtue of this Chapter, from persons occupying the house may be used by the authority to meet—

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(a) relevant expenditure, and

(b) any amounts of compensation payable to a third party by virtue of a decision of the authority under section 128.

(4) The authority must pay to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate—

(a) any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that subsection, and

(b) (where appropriate) interest on that amount at a reasonable rate fixed by the authority,

and such payments are to be made at such intervals as the authority consider appropriate.

(5) The interim management order may provide for—

(a) the rate of interest which is to apply for the purposes of paragraph (b) of subsection (4); and

(b) the intervals at which payments are to be made under that subsection.

Paragraph 24(3) of Schedule 6 enables an appeal to be brought where the order does not provide for both of those matters.

(6) The authority must—

(a) keep full accounts of their income and expenditure in respect of the house; and

(b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.

(7) A relevant landlord may apply to a residential property tribunal for an order—

(a) declaring that an amount shown in the accounts as expenditure of the authority does not constitute expenditure reasonably incurred by the authority as mentioned in subsection (2);

(b) requiring the authority to make such financial adjustments (in the accounts and otherwise) as are necessary to reflect the tribunal's declaration.

(8) In this section—

"expenditure" includes administrative costs;

"relevant landlord" means any person who is an immediate landlord of the house or part of it;

"rent or other payments" means rents or other payments payable under leases or licences or in respect of furniture within section 126(1).

Commencement Information

I108 S. 110 wholly in force at 16.6.2006; s. 110 not in force at Royal Assent see s. 270(4)(5); s. 110 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 110 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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VALID FROM 06/04/2006

Interim management orders: variation and revocation

111 Variation of interim management orders

(1) The local housing authority may vary an interim management order if they consider it appropriate to do so.

(2) A variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(3) The power to vary an order under this section is exercisable by the authority either—
- (a) on an application made by a relevant person, or
- (b) on the authority's own initiative.

(4) In this section "relevant person" means—
- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
- (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

Commencement Information

I109 S. 111 wholly in force at 16.6.2006; s. 111 not in force at Royal Assent see s. 270(4)(5); s. 111 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 111 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

112 Revocation of interim management orders

(1) The local housing authority may revoke an interim management order in the following cases—
- (a) if the order was made under section 102(2) or (3) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be);
- (b) if the order was made under section 102(2) or (3) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 on the revocation of the order;
- (c) if a final management order has been made by them in respect of the house so as to replace the order;
- (d) if in any other circumstances the authority consider it appropriate to revoke the order.

(2) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal).

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(3) The power to revoke an order under this section is exercisable by the authority either—

(a) on an application made by a relevant person, or

(b) on the authority's own initiative.

(4) In this section "relevant person" means—

(a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or

(b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

Commencement Information

I110 S. 112 wholly in force at 16.6.2006; s. 112 not in force at Royal Assent see s. 270(4)(5); s. 112 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 112 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Final management orders: making and operation of orders

113 Making of final management orders

(1) A local housing authority who have made an interim management order in respect of a house under section 102 ("the IMO")—

(a) have a duty to make a final management order in respect of the house in a case within subsection (2), and

(b) have power to make such an order in a case within subsection (3).

(2) The authority must make a final management order so as to replace the IMO as from its expiry date if—

(a) on that date the house would be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and

(b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the IMO as from that date.

(3) The authority may make a final management order so as to replace the IMO as from its expiry date if—

(a) on that date the house will not be one that would be required to be licensed as mentioned in subsection (2)(a), and

(b) the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

(4) A local housing authority who have made a final management order in respect of a house under this section ("the existing order")—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) have a duty to make a final management order in respect of the house in a case within subsection (5), and

(b) have power to make such an order in a case within subsection (6).

(5) The authority must make a new final management order so as to replace the existing order as from its expiry date if—

(a) on that date the condition in subsection (2)(a) will be satisfied in relation to the house, and

(b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the existing order as from that date.

(6) The authority may make a new final management order so as to replace the existing order as from its expiry date if—

(a) on that date the condition in subsection (3)(a) will be satisfied in relation to the house, and

(b) the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons within subsection (3)(b).

(7) The authority may make a final management order which is expressed not to apply to a part of the house that is occupied by a person who has an estate or interest in the whole of the house.

In relation to such an order, a reference in this Chapter to "the house" does not include the part so excluded (unless the context requires otherwise, such as where the reference is to the house as an HMO or a Part 3 house).

(8) In this section "expiry date", in relation to an interim or final management order, means—

(a) where the order is revoked, the date as from which it is revoked, and

(b) otherwise the date on which the order ceases to have effect under section 105 or 114;

and nothing in this section applies in relation to an interim or final management order which has been revoked on an appeal under Part 3 of Schedule 6.

Commencement Information

I111 S. 113 wholly in force at 16.6.2006; s. 113 not in force at Royal Assent see s. 270(4)(5); s. 113 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 113 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

114 Operation of final management orders

(1) This section deals with the time when a final management order comes into force or ceases to have effect.

(2) The order does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 27 of Schedule 6 (time when period for appealing expires without an appeal being made or when order is confirmed on appeal).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(3) The order ceases to have effect at the end of the period of 5 years beginning with the date on which it comes into force, unless it ceases to have effect at some other time as mentioned below.

(4) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date.

(5) Subsections (6) and (7) apply where—

(a) a new final management order ("the new order") has been made so as to replace the order ("the existing order"), but

(b) the new order has not come into force because of an appeal to a residential property tribunal under paragraph 24 of Schedule 6 against the making of that order.

(6) If—

(a) the house would (but for the existing order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and

(b) the date on which—

(i) the new order, or

(ii) any licence under Part 2 or 3, or

(iii) a temporary exemption notice under section 62 or 86,

comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection,

the existing order continues in force until that later date.

(7) If, on the application of the authority, the tribunal makes an order providing for the existing order to continue in force, pending the disposal of the appeal, until a date later than that on which it would cease to have effect apart from this subsection, the existing order accordingly continues in force until that later date.

(8) This section has effect subject to sections 121 and 122 (variation or revocation of orders) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 24 or 28 of Schedule 6.

Commencement Information

I112 S. 114 wholly in force at 16.6.2006; s. 114 not in force at Royal Assent see s. 270(4)(5); s. 114 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 114 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

115 Local housing authority's duties once final management order in force

(1) A local housing authority who have made a final management order in respect of a house must comply with the following provisions once the order has come into force.

(2) The local housing authority must take such steps as they consider appropriate with a view to the proper management of the house in accordance with the management scheme contained in the order (see section 119).

(3) The local housing authority must from time to time review—

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) the operation of the order and in particular the management scheme contained in it, and

(b) whether keeping the order in force in relation to the house (with or without making any variations under section 121) is the best alternative available to them.

(4) If on a review the authority consider that any variations should be made under section 121, they must proceed to make those variations.

(5) If on a review the authority consider that either—

(a) granting a licence under Part 2 or 3 in respect of the house, or

(b) revoking the order under section 122 and taking no further action,

is the best alternative available to them, the authority must grant such a licence or revoke the order (as the case may be).

(6) For the avoidance of doubt, the authority's duty under subsection (2) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes.

Commencement Information

I113 S. 115 wholly in force at 16.6.2006; s. 115 not in force at Royal Assent see s. 270(4)(5); s. 115 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 115 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

116 General effect of final management orders

(1) This section applies while a final management order is in force in relation to a house.

(2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duty under section 115(2) in respect of the house.

(3) The authority—

(a) have the right to possession of the house (subject to the rights of existing and other occupiers preserved by section 124(3) and (6));

(b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;

(c) may create one or more of the following—

(i) an interest in the house which, as far as possible, has all the incidents of a leasehold, or

(ii) a right in the nature of a licence to occupy part of the house.

(4) The powers of the authority under subsection (3)(c) are restricted as follows—

(a) they may not create any interest or right in the nature of a lease or licence—

(i) which is for a fixed term expiring after the date on which the order is due to expire, or

(ii) (subject to paragraph (b)) which is terminable by notice to quit, or an equivalent notice, of more than 4 weeks,

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unless consent in writing has been given by the person who would (but for the order) have power to create the lease or licence in question;

(b) they may create an interest in the nature of an assured shorthold tenancy without any such consent so long as it is created before the beginning of the period of 6 months that ends with the date on which the order is due to expire.

(5) The authority—

(a) do not under this section acquire any estate or interest in the house, and

(b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest;

but, where the immediate landlord of the house or part of it (within the meaning of section 118) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.

(6) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—

(a) a lease in relation to which the authority are to be treated as the lessee under subsection (5), or

(b) a lease to which the authority become a party under section 124(4),

as if the authority were the legal owner of the premises (but this is subject to section 124(7) to (9)).

(7) None of the following, namely—

(a) the authority, or

(b) any person authorised under subsection (3)(b),

is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's duty under section 115(2) unless the act or omission is due to the negligence of the authority or any such person.

(8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which a final management order is in force.

(9) A final management order which has come into force is a local land charge.

(10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register in respect of such an order.

(11) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Commencement Information

I114 S. 116 wholly in force at 16.6.2006; s. 116 not in force at Royal Assent see s. 270(4)(5); s. 116 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 116 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

117 General effect of final management orders: leases and licences granted by authority

(1) This section applies in relation to any interest or right created by the authority under section 116(3)(c).

(2) For the purposes of any enactment or rule of law—

(a) any interest created by the authority under section 116(3)(c)(i) is to be treated as if it were a legal lease, and

(b) any right created by the authority under section 116(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the premises,

despite the fact that the authority have no legal estate in the premises (see section 116(5)(a)).

(3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under section 116(3)(c)(i) as if the authority were the legal owner of the premises.

(4) References to leases and licences—

(a) in this Chapter, and

(b) in any other enactment,

accordingly include (where the context permits) interests and rights created by the authority under section 116(3)(c).

(5) The preceding provisions of this section have effect subject to—

(a) section 124(7) to (9), and

(b) any provision to the contrary contained in an order made by the appropriate national authority.

(6) In section 116(5)(b) the reference to leasing does not include the creation of interests under section 116(3)(c)(i).

(7) In this section—

"enactment" has the meaning given by section 116(11);

"legal lease" means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

Commencement Information

I115 S. 117 wholly in force at 16.6.2006; s. 117 not in force at Royal Assent see s. 270(4)(5); s. 117 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 117 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

118 General effect of final management orders: immediate landlords, mortgagees etc.

(1) This section applies in relation to—

(a) immediate landlords, and

(b) other persons with an estate or interest in the house,

while a final management order is in force in relation to a house.

(2) A person who is an immediate landlord of the house or a part of it—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) is not entitled to receive—

(i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4), or

(ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any leases or licences granted by them under section 107(3)(c) or 116(3)(c);

(b) may not exercise any rights or powers with respect to the management of the house or part; and

(c) may not create any of the following—

(i) any leasehold interest in the house or part (other than a lease of a reversion), or

(ii) any licence or other right to occupy it.

(3) However (subject to subsection (2)(c)) nothing in section 116 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.

(4) Nothing in section 116 or this section affects—

(a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or

(b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 116(5)) any rights or remedies available to the lessor under such a lease,

except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under section 116(3)(c).

(5) In proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the final management order (including an order quashing it).

(6) For the purposes of this Chapter, as it applies in relation to a final management order, a person is an "immediate landlord" of the house or a part of it if—

(a) he is an owner or lessee of the house or part, and

(b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the authority by virtue of section 124(4).

Commencement Information

I116 S. 118 wholly in force at 16.6.2006; s. 118 not in force at Royal Assent see s. 270(4)(5); s. 118 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 118 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

119 Management schemes and accounts

(1) A final management order must contain a management scheme.

(2) A "management scheme" is a scheme setting out how the local housing authority are to carry out their duty under section 115(2) as respects the management of the house.

(3) A management scheme is to be divided into two parts.

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(4) Part 1 of the scheme is to contain a plan giving details of the way in which the authority propose to manage the house, which must (in particular) include—

(a) details of any works that the authority intend to carry out in connection with the house;

(b) an estimate of the capital and other expenditure to be incurred by the authority in respect of the house while the order is in force;

(c) the amount of rent or other payments that the authority will seek to obtain having regard to the condition or expected condition of the house at any time while the order is in force;

(d) the amount of any compensation that is payable to a third party by virtue of a decision of the authority under section 128 in respect of any interference in consequence of the final management order with the rights of that person;

(e) provision as to the payment of any such compensation;

(f) provision as to the payment by the authority to a relevant landlord, from time to time, of amounts of rent or other payments that remain after the deduction of—

(i) relevant expenditure, and

(ii) any amounts of compensation payable as mentioned in paragraph (d);

(g) provision as to the manner in which the authority are to pay to a relevant landlord, on the termination of the final management order, any amounts of rent or other payments that remain after the deduction of—

(i) relevant expenditure, and

(ii) any amounts of compensation payable as mentioned in paragraph (d);

(h) provision as to the manner in which the authority are to pay, on the termination of the final management order, any outstanding balance of compensation payable to a third party.

(5) Part 1 of the scheme may also state—

(a) the authority's intentions as regards the use of rent or other payments to meet relevant expenditure;

(b) the authority's intentions as regards the payment to a relevant landlord (where appropriate) of interest on amounts within subsection (4)(f) and (g);

(c) that section 129(2) or (4) is not to apply in relation to an interim or (as the case may be) final management order that immediately preceded the final management order, and that instead the authority intend to use any balance or amount such as is mentioned in that subsection to meet—

(i) relevant expenditure incurred during the currency of the final management order, and

(ii) any compensation that may become payable to a third party;

(d) that section 129(3) or (5) is not to apply in relation to an interim or (as the case may be) final management order that immediately preceded the final management order ("the order"), and that instead the authority intend to use rent or other payments collected during the currency of the order to reimburse the authority in respect of any deficit or amount such as is mentioned in that subsection;

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(e) the authority's intentions as regards the recovery from a relevant landlord, with or without interest, of any amount of relevant expenditure that cannot be reimbursed out of the total amount of rent or other payments.

(6) Part 2 of the scheme is to describe in general terms how the authority intend to address the matters which caused them to make the final management order and may, for example, include—

(a) descriptions of any steps that the authority intend to take to require persons occupying the house to comply with their obligations under any lease or licence or under the general law;

(b) descriptions of any repairs that are needed to the property and an explanation as to why those repairs are necessary.

(7) The authority must—

(a) keep full accounts of their income and expenditure in respect of the house; and

(b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.

(8) In this section—

"relevant expenditure" means expenditure reasonably incurred by the authority in connection with performing their duties under section 115(2) in respect of the house (including any reasonable administrative costs and any premiums paid for insurance of the premises);

"relevant landlord" means any person who is an immediate landlord of the house or part of it;

"rent or other payments" means rent or other payments—

(a) which are payable under leases or licences or in respect of furniture within section 126(1), and

(b) which the authority have collected or recovered by virtue of this Chapter.

(9) In the provisions of this Chapter relating to varying, revoking or appealing against decisions relating to a final management order, any reference to such an order includes (where the context permits) a reference to the management scheme contained in it.

Commencement Information

I117 S. 119 wholly in force at 16.6.2006; s. 119 not in force at Royal Assent see s. 270(4)(5); s. 119 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 119 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

120 Enforcement of management scheme by relevant landlord

(1) An affected person may apply to a residential property tribunal for an order requiring the local housing authority to manage the whole or part of a house in accordance with the management scheme contained in a final management order made in respect of the house.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(2) On such an application the tribunal may, if it considers it appropriate to do so, make an order—
- (a) requiring the local housing authority to manage the whole or part of the house in accordance with the management scheme, or
- (b) revoking the final management order as from a date specified in the tribunal's order.

(3) An order under subsection (2) may—
- (a) specify the steps which the authority are to take to manage the whole or part of the house in accordance with the management scheme,
- (b) include provision varying the final management order,
- (c) require the payment of money to an affected person by way of damages.

(4) In this section "affected person" means—
- (a) a relevant landlord (within the meaning of section 119), and
- (b) any third party to whom compensation is payable by virtue of a decision of the authority under section 128.

Commencement Information

I118 S. 120 wholly in force at 16.6.2006; s. 120 not in force at Royal Assent see s. 270(4)(5); s. 120 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 120 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Final management orders: variation and revocation

121 Variation of final management orders

(1) The local housing authority may vary a final management order if they consider it appropriate to do so.

(2) A variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(3) The power to vary an order under this section is exercisable by the authority either—
- (a) on an application made by a relevant person, or
- (b) on the authority's own initiative.

(4) In this section "relevant person" means—
- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
- (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I119 S. 121 wholly in force at 16.6.2006; s. 121 not in force at Royal Assent see s. 270(4)(5); s. 121 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 121 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

122 Revocation of final management orders

(1) The local housing authority may revoke a final management order in the following cases—

(a) if the order was made under section 113(2) or (5) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be);

(b) if the order was made under section 113(2) or (5) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 as from the revocation of the order;

(c) if a further final management order has been made by them in respect of the house so as to replace the order;

(d) if in any other circumstances the authority consider it appropriate to revoke the order.

(2) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(3) The power to revoke an order under this section is exercisable by the authority either—

(a) on an application made by a relevant person, or

(b) on the authority's own initiative.

(4) In this section "relevant person" means—

(a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or

(b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

Commencement Information

I120 S. 122 wholly in force at 16.6.2006; s. 122 not in force at Royal Assent see s. 270(4)(5); s. 122 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 122 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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VALID FROM 06/04/2006

Interim and final management orders: procedure and appeals

123 Procedural requirements and appeals

Schedule 6 (which deals with procedural requirements relating to the making, variation or revocation of interim and final management orders and with appeals against decisions relating to such orders) has effect.

Commencement Information

I121 S. 123 wholly in force at 16.6.2006; s. 123 not in force at Royal Assent see s. 270(4)(5); s. 123 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 123 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Interim and final management orders: other general provisions

124 Effect of management orders: occupiers

(1) This section applies to existing and new occupiers of a house in relation to which an interim or final management order is in force.

(2) In this section—

"existing occupier" means a person who, at the time when the order comes into force, either—

(a) (in the case of an HMO or a Part 3 house) is occupying part of the house and does not have an estate or interest in the whole of the house, or

(b) (in the case of a Part 3 house) is occupying the whole of the house,

but is not a new occupier within subsection (6);

"new occupier" means a person who, at a time when the order is in force, is occupying the whole or part of the house under a lease or licence granted under section 107(3)(c) or 116(3)(c).

(3) Sections 107 and 116 do not affect the rights or liabilities of an existing occupier under a lease or licence (whether in writing or not) under which he is occupying the whole or part of the house at the commencement date.

(4) Where the lessor or licensor under such a lease or licence—

(a) has an estate or interest in the house, and

(b) is not an existing occupier,

the lease or licence has effect while the order is in force as if the local housing authority were substituted in it for the lessor or licensor.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(5) Such a lease continues to have effect, as far as possible, as a lease despite the fact that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises.

(6) Section 116 does not affect the rights or liabilities of a new occupier who, in the case of a final management order, is occupying the whole or part of the house at the time when the order comes into force.

(7) The provisions which exclude local authority lettings from the Rent Acts, namely—
- (a) sections 14 to 16 of the Rent Act 1977 (c. 42), and
- (b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act,

do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.

(8) Section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act) do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.

(9) Nothing in this Chapter has the result that the authority are to be treated as the legal owner of any premises for the purposes of—
- (a) section 80 of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies); or
- (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).

(10) If, immediately before the coming into force of an interim or final management order, an existing occupier was occupying the whole or part of the house under—
- (a) a protected or statutory tenancy within the meaning of the Rent Act 1977 (c. 42),
- (b) a protected or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976 (c. 80), or
- (c) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988 (c. 50),

nothing in this Chapter prevents the continuance of that tenancy or occupancy or affects the continued operation of any of those Acts in relation to the tenancy or occupancy after the coming into force of the order.

(11) In this section "the commencement date" means the date on which the order came into force (or, if that order was preceded by one or more orders under this Chapter, the date when the first order came into force).

Commencement Information

I122 S. 124 wholly in force at 16.6.2006; s. 124 not in force at Royal Assent see s. 270(4)(5); s. 124 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 124 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

125 Effect of management orders: agreements and legal proceedings

(1) An agreement or instrument within subsection (2) has effect, while an interim or final management order is in force, as if any rights or liabilities of the immediate landlord under the agreement or instrument were instead rights or liabilities of the local housing authority.

(2) An agreement or instrument is within this subsection if—
- (a) it is effective on the commencement date,
- (b) one of the parties to it is a person who is the immediate landlord of the house or a part of the house ("the relevant premises"),
- (c) it relates to the house, whether in connection with—
  - (i) any management activities with respect to the relevant premises, or
  - (ii) the provision of any services or facilities for persons occupying those premises,

  or otherwise,
- (d) it is specified for the purposes of this subsection in the order or falls within a description of agreements or instruments so specified, and
- (e) the authority serve a notice in writing on all the parties to it stating that subsection (1) is to apply to it.

(3) An agreement or instrument is not within subsection (2) if—
- (a) it is a lease within section 107(5) or 116(5), or
- (b) it relates to any disposition by the immediate landlord which is not precluded by section 109(2) or 118(2), or
- (c) it is within section 124(4).

(4) Proceedings in respect of any cause of action within subsection (5) may, while an interim or final management order is in force, be instituted or continued by or against the local housing authority instead of by or against the immediate landlord.

(5) A cause of action is within this subsection if—
- (a) it is a cause of action (of any nature) which accrued to or against the immediate landlord of the house or a part of the house before the commencement date,
- (b) it relates to the house as mentioned in subsection (2)(c),
- (c) it is specified for the purposes of this subsection in the order or falls within a description of causes of action so specified, and
- (d) the authority serve a notice in writing on all interested parties stating that subsection (4) is to apply to it.

(6) If, by virtue of this section, the authority become subject to any liability to pay damages in respect of anything done (or omitted to be done) before the commencement date by or on behalf of the immediate landlord of the house or a part of it, the immediate landlord is liable to reimburse to the authority an amount equal to the amount of the damages paid by them.

(7) In this section—

"agreement" includes arrangement;

"the commencement date" means the date on which the order comes into force (or, if that order was preceded by one or more orders under this Chapter, the date when the first order came into force);

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"management activities" includes repair, maintenance, improvement and insurance.

Commencement Information

I123 S. 125 wholly in force at 16.6.2006; s. 125 not in force at Royal Assent see s. 270(4)(5); s. 125 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 125 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

126 Effect of management orders: furniture

(1) Subsection (2) applies where, on the date on which an interim or final management order comes into force, there is furniture in the house which a person occupying the house has the right to use in consideration of periodical payments to a person who is an immediate landlord of the house or a part of it (whether the payments are included in the rent payable by the occupier or not).

(2) The right to possession of the furniture against all persons other than the occupier vests in the local housing authority on that date and remains vested in the authority while the order is in force.

(3) The local housing authority may renounce the right to possession of the furniture conferred by subsection (2) if—

(a) an application in writing has been made to them for the purpose by the person owning the furniture, and

(b) they renounce the right by notice in writing served on that person not less than two weeks before the notice takes effect.

(4) If the authority's right to possession of furniture conferred by subsection (2) is a right exercisable against more than one person interested in the furniture, any of those persons may apply to a residential property tribunal for an adjustment of their respective rights and liabilities as regards the furniture.

(5) On such an application the tribunal may make an order for such an adjustment of rights and liabilities, either unconditionally or subject to such terms and conditions, as it considers appropriate.

(6) The terms and conditions may, in particular, include terms and conditions about the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise.

(7) In this section "furniture" includes fittings and other articles.

Commencement Information

I124 S. 126 wholly in force at 16.6.2006; s. 126 not in force at Royal Assent see s. 270(4)(5); s. 126 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 126 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

127 Management orders: power to supply furniture

(1) The local housing authority may supply the house to which an interim or final management order relates with such furniture as they consider to be required.

(2) For the purposes of section 110 or a management scheme under section 119, any expenditure incurred by the authority under this section constitutes expenditure incurred by the authority in connection with performing their duty under section 106(3) or 115(2).

(3) In this section "furniture" includes fittings and other articles.

Commencement Information

I125 S. 127 wholly in force at 16.6.2006; s. 127 not in force at Royal Assent see s. 270(4)(5); s. 127 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 127 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

128 Compensation payable to third parties

(1) If a third party requests them to do so at any time, the local housing authority must consider whether an amount by way of compensation should be paid to him in respect of any interference with his rights in consequence of an interim or final management order.

(2) The authority must notify the third party of their decision as soon as practicable.

(3) Where the local housing authority decide under subsection (1) that compensation ought to be paid to a third party in consequence of a final management order, they must vary the management scheme contained in the order so as to specify the amount of the compensation to be paid and to make provision as to its payment.

Commencement Information

I126 S. 128 wholly in force at 16.6.2006; s. 128 not in force at Royal Assent see s. 270(4)(5); s. 128 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 128 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

129 Termination of management orders: financial arrangements

(1) This section applies where an interim or final management order ceases to have effect for any reason.

(2) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) exceeds the total amount of—

(a) the local housing authority's relevant expenditure, and

(b) any amounts of compensation payable to third parties by virtue of decisions of the authority under section 128,

the authority must, as soon as practicable after the termination date, pay the balance to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate.

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(3) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) is less than the total amount of—

(a) the authority's relevant expenditure, and

(b) any amounts of compensation payable as mentioned in subsection (2)(b),

the difference is recoverable by the authority from such relevant landlord, or such relevant landlords in such proportions, as they consider appropriate.

(4) If, on the termination date for a final management order, any amount is payable to—

(a) a third party, or

(b) any relevant landlord in accordance with the management scheme under section 119,

that amount must be paid to that person by the local housing authority in the manner provided by the scheme.

(5) If, on the termination date for a final management order, any amount is payable to the local housing authority in accordance with the management scheme, that amount is recoverable by the local housing authority—

(a) from such relevant landlord, or

(b) from such relevant landlords in such proportions,

as is provided by the scheme.

(6) The provisions of any of subsections (2) to (5) do not, however, apply in relation to the order if —

(a) the order is followed by a final management order, and

(b) the management scheme contained in that final management order provides for that subsection not to apply in relation to the order (see section 119(5)(c) and (d)).

(7) Any sum recoverable by the authority under subsection (3) or (5) is, until recovered, a charge on the house.

(8) The charge takes effect on the termination date for the order as a legal charge which is a local land charge.

(9) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) 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.

(10) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.

(11) If the order is to be followed by a licence granted under Part 2 or 3 in respect of the house, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to repay to the authority any amount recoverable by them under subsection (3) or (5), and

(b) to do so in such instalments as are specified in the licence.

(12) In this section—

"relevant expenditure" has the same meaning as in section 110;

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"relevant landlord" means a person who was the immediate landlord of the house or part of it immediately before the termination date or his successor in title for the time being;

"rent or other payments" means rents or other payments payable under leases or licences or in respect of furniture within section 126(1);

"the termination date" means the date on which the order ceases to have effect.

Commencement Information

I127 S. 129 wholly in force at 16.6.2006; s. 129 not in force at Royal Assent see s. 270(4)(5); s. 129 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 129 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

130 Termination of management orders: leases, agreements and proceedings

(1) This section applies where—

(a) an interim or final management order ceases to have effect for any reason, and

(b) the order is not immediately followed by a further order under this Chapter.

(2) As from the termination date—

(a) a lease or licence in which the local housing authority was substituted for another party by virtue of section 124(4) has effect with the substitution of the original party, or his successor in title, for the authority; and

(b) an agreement which (in accordance with section 108 or 117) has effect as a lease or licence granted by the authority under section 107 or 116 has effect with the substitution of the relevant landlord for the authority.

(3) If the relevant landlord is a lessee, nothing in a superior lease imposes liability on him or any superior lessee in respect of anything done before the termination date in pursuance of the terms of an agreement to which subsection (2)(b) applies.

(4) If the condition in subsection (5) is met, any other agreement entered into by the authority in the performance of their duties under section 106(1) to (3) or 115(2) in respect of the house has effect, as from the termination date, with the substitution of the relevant landlord for the authority.

(5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that subsection (4) applies to the agreement.

(6) If the condition in subsection (7) is met—

(a) any rights or liabilities that were rights or liabilities of the authority immediately before the termination date by virtue of any provision of this Chapter or under any agreement to which subsection (4) applies are rights or liabilities of the relevant landlord instead, and

(b) any proceedings instituted or continued by or against the authority by virtue of any such provision or agreement may be continued by or against the relevant landlord instead,

as from the termination date.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(7) The condition is that the authority serve a notice on all interested parties stating that subsection (6) applies to the rights or liabilities or (as the case may be) the proceedings.

(8) If by virtue of this section a relevant landlord becomes subject to any liability to pay damages in respect of anything done (or omitted to be done) before the termination date by or on behalf of the authority, the authority are liable to reimburse to the relevant landlord an amount equal to the amount of the damages paid by him.

(9) Where two or more persons are relevant landlords in relation to different parts of the house, any reference in this section to "the relevant landlord" is to be taken to refer to such one or more of them as is determined by agreement between them or (in default of agreement) by a residential property tribunal on an application made by any of them.

(10) This section applies to instruments as it applies to agreements.

(11) In this section—

"agreement" includes arrangement;

"relevant landlord" means a person who was the immediate landlord of the house immediately before the termination date or his successor in title for the time being;

"the termination date" means the date on which the order ceases to have effect.

Commencement Information

I128 S. 130 wholly in force at 16.6.2006; s. 130 not in force at Royal Assent see s. 270(4)(5); s. 130 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 130 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

131 Management orders: power of entry to carry out work

(1) The right mentioned in subsection (2) is exercisable by the local housing authority, or any person authorised in writing by them, at any time when an interim or final management order is in force.

(2) That right is the right at all reasonable times to enter any part of the house for the purpose of carrying out works, and is exercisable as against any person having an estate or interest in the house.

(3) Where part of a house is excluded from the provisions of an interim or final management order under section 102(8) or 113(7), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of carrying out works in the part of the house which is subject to the order.

(4) If, after receiving reasonable notice of the intended action, any occupier of the whole or part of the house prevents any officer, employee, agent or contractor of the local housing authority from carrying out work in the house, a magistrates' court may order him to permit to be done on the premises anything which the authority consider to be necessary.

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(5) A person who fails to comply with an order of the court under subsection (4) commits an offence.

(6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I129 S. 131 wholly in force at 16.6.2006; s. 131 not in force at Royal Assent see s. 270(4)(5); s. 131 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 131 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

CHAPTER 2

INTERIM AND FINAL EMPTY DWELLING MANAGEMENT ORDERS

VALID FROM 06/04/2006

Introductory

132 Empty dwelling management orders: introductory

(1) This Chapter deals with the making by a local housing authority of—
- (a) an interim empty dwelling management order (an "interim EDMO"), or
- (b) a final empty dwelling management order (a "final EDMO"),

in respect of a dwelling.

(2) An interim EDMO is an order made to enable a local housing authority, with the consent of the relevant proprietor, to take steps for the purpose of securing that a dwelling becomes and continues to be occupied.

(3) A final EDMO is an order made, in succession to an interim EDMO or a previous final EDMO, for the purpose of securing that a dwelling is occupied.

(4) In this Chapter—
- (a) "dwelling" means—
  - (i) a building intended to be occupied as a separate dwelling, or
  - (ii) a part of a building intended to be occupied as a separate dwelling which may be entered otherwise than through any non-residential accommodation in the building;
- (b) any reference to "the dwelling", in relation to an interim EDMO or a final EDMO, is a reference to the dwelling to which the order relates;
- (c) "relevant proprietor", in relation to a dwelling, means—
  - (i) if the dwelling is let under one or more leases with an unexpired term of 7 years or more, the lessee under whichever of those leases has the shortest unexpired term; or
  - (ii) in any other case, the person who has the freehold estate in the dwelling;

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(d) "third party", in relation to a dwelling, means any person who has an estate or interest in the dwelling (other than the relevant proprietor and any person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of Schedule 7); and

(e) any reference (however expressed) to rent or other payments in respect of occupation of a dwelling, includes any payments that the authority receive from persons in respect of unlawful occupation of the dwelling.

(5) In subsection (4)(c), the reference to an unexpired term of 7 years or more of a lease of a dwelling is—

(a) in relation to a dwelling in respect of which the local housing authority are considering making an interim EDMO, a reference to the unexpired term of the lease at the time the authority begin taking steps under section 133(3),

(b) in relation to a dwelling in respect of which an interim EDMO has been made, a reference to the unexpired term of the lease at the time the application for authorisation to make the interim EDMO was made under subsection (1) of that section, or

(c) in relation to a dwelling in respect of which a local housing authority are considering making or have made a final EDMO, a reference to the unexpired term of the lease at the time the application for authorisation to make the preceding interim EDMO was made under subsection (1) of that section.

"Preceding interim EDMO", in relation to a final EDMO, means the interim EDMO that immediately preceded the final EDMO or, where there has been a succession of final EDMOs, the interim EDMO that immediately preceded the first of them.

(6) Schedule 7 (which makes further provision regarding EDMOs) has effect.

Commencement Information

I130 S. 132 wholly in force at 16.6.2006; s. 132 not in force at Royal Assent see s. 270(4)(5); s. 132 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 132 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Interim empty dwelling management orders

VALID FROM 06/04/2006

133 Making of interim EDMOs

(1) A local housing authority may make an interim EDMO in respect of a dwelling if—

(a) it is a dwelling to which this section applies, and

(b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them under section 134 to make such an order, either in the terms of a draft order submitted by them or in those terms as varied by the tribunal.

(2) This section applies to a dwelling if—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(a) the dwelling is wholly unoccupied, and

(b) the relevant proprietor is not a public sector body.

"Wholly unoccupied" means that no part is occupied, whether lawfully or unlawfully.

(3) Before determining whether to make an application to a residential property tribunal for an authorisation under section 134, the authority must make reasonable efforts—

(a) to notify the relevant proprietor that they are considering making an interim EDMO in respect of the dwelling under this section, and

(b) to ascertain what steps (if any) he is taking, or is intending to take, to secure that the dwelling is occupied.

(4) In determining whether to make an application to a residential property tribunal for an authorisation under section 134, the authority must take into account the rights of the relevant proprietor of the dwelling and the interests of the wider community.

(5) The authority may make an interim EDMO in respect of the dwelling despite any pending appeal against the order of the tribunal (but this is without prejudice to any order that may be made on the disposal of any such appeal).

(6) An application to a residential property tribunal under this section for authorisation to make an interim EDMO in respect of a dwelling may include an application for an order under paragraph 22 of Schedule 7 determining a lease or licence of the dwelling.

(7) In this section "public sector body" means a body mentioned in any of paragraphs (a) to (f) of paragraph 2(1) of Schedule 14.

(8) Part 1 of Schedule 6 applies in relation to the making of an interim EDMO in respect of a dwelling as it applies in relation to the making of an interim management order in respect of a house, subject to the following modifications—

(a) paragraph 7(2) does not apply;

(b) paragraph 7(4)(c) is to be read as referring instead to the date on which the order is to cease to have effect in accordance with paragraph 1(3) and (4) or 9(3) to (5) of Schedule 7;

(c) in paragraph 7(6)—

(i) paragraph (a) is to be read as referring instead to Part 4 of Schedule 7; and

(ii) paragraph (b) does not apply;

(d) paragraph 8(4) is to be read as defining "relevant person" as any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) of Schedule 7).

Commencement Information

I131 S. 133 wholly in force at 16.6.2006; s. 133 not in force at Royal Assent see s. 270(4)(5); s. 133 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 133 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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134 Authorisation to make interim EDMOs

(1) A residential property tribunal may authorise a local housing authority to make an interim EDMO in respect of a dwelling to which section 133 applies if the tribunal—
- (a) is satisfied as to the matters mentioned in subsection (2), and
- (b) is not satisfied that the case falls within one of the prescribed exceptions.

(2) The matters as to which the tribunal must be satisfied are—
- (a) that the dwelling has been wholly unoccupied for at least 6 months or such longer period as may be prescribed,
- (b) that there is no reasonable prospect that the dwelling will become occupied in the near future,
- (c) that, if an interim order is made, there is a reasonable prospect that the dwelling will become occupied,
- (d) that the authority have complied with section 133(3), and
- (e) that any prescribed requirements have been complied with.

(3) In deciding whether to authorise a local housing authority to make an interim EDMO in respect of a dwelling, the tribunal must take into account—
- (a) the interests of the community, and
- (b) the effect that the order will have on the rights of the relevant proprietor and may have on the rights of third parties.

(4) On authorising a local housing authority to make an interim EDMO in respect of a dwelling, the tribunal may, if it thinks fit, make an order requiring the authority (if they make the EDMO) to pay to any third party specified in the order an amount of compensation in respect of any interference in consequence of the order with the rights of the third party.

(5) The appropriate national authority may by order—
- (a) prescribe exceptions for the purposes of subsection (1)(b),
- (b) prescribe a period of time for the purposes of subsection (2)(a), and
- (c) prescribe requirements for the purposes of subsection (2)(e).

(6) An order under subsection (5)(a) may, in particular, include exceptions in relation to—
- (a) dwellings that have been occupied solely or principally by the relevant proprietor who is at the material time temporarily resident elsewhere;
- (b) dwellings that are holiday homes or that are otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
- (c) dwellings undergoing repairs or renovation;
- (d) dwellings in respect of which an application for planning permission or building control approval is outstanding;
- (e) dwellings which are genuinely on the market for sale or letting;
- (f) dwellings where the relevant proprietor has died not more than the prescribed number of months before the material time.

(7) In this section—

"building control approval" means approval for the carrying out of any works under building regulations;

"planning permission" has the meaning given by section 336(1) of the Town and Country Planning Act 1990 (c. 8);

"prescribed" means prescribed by an order under subsection (5);

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

"wholly unoccupied" means that no part is occupied, whether lawfully or unlawfully.

Commencement Information

I132 S. 134 wholly in force at 16.6.2006; s. 134 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 134 in force for E. at 6.7.2006 by S.I. 2006/1060, **art. 2(2)(b)** (with Sch.); s. 134 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

135 Local housing authority's duties once interim EDMO in force

(1) A local housing authority who have made an interim EDMO in respect of a dwelling must comply with the following provisions as soon as practicable after the order has come into force (see paragraph 1 of Schedule 7).

(2) The authority must take such steps as they consider appropriate for the purpose of securing that the dwelling becomes and continues to be occupied.

(3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the dwelling pending—
- (a) the making of a final EDMO in respect of the dwelling under section 136, or
- (b) the revocation of the interim EDMO.

(4) If the local housing authority conclude that there are no steps which they could appropriately take under the order for the purpose of securing that the dwelling becomes occupied, the authority must either—
- (a) make a final EDMO in respect of the dwelling under section 136, or
- (b) revoke the order under paragraph 7 of Schedule 7 without taking any further action.

(5) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the dwelling against destruction or damage by fire or other causes.

Commencement Information

I133 S. 135 wholly in force at 16.6.2006; s. 135 not in force at Royal Assent see s. 270(4)(5); s. 135 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 135 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

VALID FROM 06/04/2006

Final empty dwelling management orders

136 Making of final EDMOs

(1) A local housing authority may make a final EDMO to replace an interim EDMO made under section 133 if—
- (a) they consider that, unless a final EDMO is made in respect of the dwelling, the dwelling is likely to become or remain unoccupied;
- (b) where the dwelling is unoccupied, they have taken all such steps as it was appropriate for them to take under the interim EDMO with a view to securing the occupation of the dwelling.

(2) A local housing authority may make a new final EDMO so as to replace a final EDMO made under this section if—
- (a) they consider that unless a new final EDMO is made in respect of the dwelling, the dwelling is likely to become or remain unoccupied; and
- (b) where the dwelling is unoccupied, they have taken all such steps as it was appropriate for them to take under the existing final EDMO with a view to securing the occupation of the dwelling.

(3) In deciding whether to make a final EDMO in respect of a dwelling, the authority must take into account—
- (a) the interests of the community, and
- (b) the effect that the order will have on the rights of the relevant proprietor and may have on the rights of third parties.

(4) Before making a final EDMO under this section, the authority must consider whether compensation should be paid by them to any third party in respect of any interference in consequence of the order with the rights of the third party.

(5) Part 1 of Schedule 6 applies in relation to the making of a final EDMO in respect of a dwelling as it applies in relation to the making of a final management order in respect of a house, subject to the following modifications—
- (a) paragraph 7(2) does not apply;
- (b) paragraph 7(4)(c) is to be read as referring instead to the date on which the order is to cease to have effect in accordance with paragraph 1(3) and (4) or 9(3) to (5) of Schedule 7;
- (c) in paragraph 7(6)—
  - (i) paragraph (a) is to be read as referring to Part 4 of Schedule 7, and
  - (ii) paragraph (b) is to be read as referring instead to paragraph 27(2) of Schedule 7;
- (d) paragraph 7(6) in addition is to be read as requiring the notice under paragraph 7(5) also to contain—
  - (i) the decision of the authority as to whether to pay compensation to any third party,
  - (ii) the amount of any such compensation to be paid, and
  - (iii) information about the right of appeal against the decision under paragraph 34 of Schedule 7;

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(e) paragraph 8(4) is to be read as defining "relevant person" as any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of Schedule 7).

Commencement Information

I134 S. 136 wholly in force at 16.6.2006; s. 136 not in force at Royal Assent see s. 270(4)(5); s. 136 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 136 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

137 Local housing authority's duties once final EDMO in force

(1) A local housing authority who have made a final EDMO in respect of a dwelling must comply with the following provisions once the order has come into force (see paragraph 9 of Schedule 7).

(2) The authority must take such steps as they consider appropriate for the purpose of securing that the dwelling is occupied.

(3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the dwelling in accordance with the management scheme contained in the order (see paragraph 13 of Schedule 7).

(4) The authority must from time to time review—

(a) the operation of the order and in particular the management scheme contained in it,

(b) whether, if the dwelling is unoccupied, there are any steps which they could appropriately take under the order for the purpose of securing that the dwelling becomes occupied, and

(c) whether keeping the order in force in relation to the dwelling (with or without making any variations under paragraph 15 of Schedule 7) is necessary to secure that the dwelling becomes or remains occupied.

(5) If on a review the authority consider that any variations should be made under paragraph 15 of Schedule 7, they must proceed to make those variations.

(6) If the dwelling is unoccupied and on a review the authority conclude that either—

(a) there are no steps which they could appropriately take as mentioned in subsection (4)(b), or

(b) keeping the order in force is not necessary as mentioned in subsection (4)(c),

they must proceed to revoke the order.

(7) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the dwelling against destruction or damage by fire or other causes.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I135 S. 137 wholly in force at 16.6.2006; s. 137 not in force at Royal Assent see s. 270(4)(5); s. 137 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 137 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Compensation

138 Compensation payable to third parties

(1) A third party may, while an interim EDMO is in force in respect of a dwelling, apply to a residential property tribunal for an order requiring the local housing authority to pay to him compensation in respect of any interference in consequence of the order with his rights in respect of the dwelling.

(2) On such an application, the tribunal may, if it thinks fit, make an order requiring the authority to pay to the third party an amount by way of compensation in respect of any such interference.

(3) If a third party requests them to do so at any time, the local housing authority must consider whether an amount by way of compensation should be paid to him in respect of any interference in consequence of a final EDMO with his rights.

(4) The authority must notify the third party of their decision as soon as practicable.

(5) Where the local housing authority decide under subsection (3) that compensation ought to be paid to a third party, they must vary the management scheme contained in the order so as to specify the amount of the compensation to be paid and to make provision as to its payment.

Commencement Information

I136 S. 138 wholly in force at 16.6.2006; s. 138 not in force at Royal Assent see s. 270(4)(5); s. 138 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 138 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

CHAPTER 3

OVERCROWDING NOTICES

VALID FROM 06/04/2006

139 Service of overcrowding notices

(1) This Chapter applies to any HMO—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(a) in relation to which no interim or final management order is in force; and
(b) which is not required to be licensed under Part 2.

(2) The local housing authority may serve an overcrowding notice on one or more relevant persons if, having regard to the rooms available, it considers that an excessive number of persons is being, or is likely to be, accommodated in the HMO concerned.

(3) The authority must, at least 7 days before serving an overcrowding notice—
(a) inform in writing every relevant person (whether or not the person on whom the authority is to serve the notice) of their intention to serve the notice; and
(b) ensure that, so far as is reasonably possible, every occupier of the HMO concerned is informed of the authority's intention.

(4) The authority must also give the persons informed under subsection (3) an opportunity of making representations about the proposal to serve an overcrowding notice.

(5) An overcrowding notice becomes operative, if no appeal is brought under section 143, at the end of the period of 21 days from the date of service of the notice.

(6) If no appeal is brought under section 143, an overcrowding notice is final and conclusive as to matters which could have been raised on such an appeal.

(7) A person who contravenes an overcrowding notice commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(8) In proceedings for an offence under subsection (7) it is a defence that the person had a reasonable excuse for contravening the notice.

(9) In this section "relevant person" means a person who is, to the knowledge of the local housing authority—
(a) a person having an estate or interest in the HMO concerned, or
(b) a person managing or having control of it.

Modifications etc. (not altering text)

C8 S. 139 modified (E.) (1.10.2007) by The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (England) Regulations 2007 (S.I. 2007/1904), {reg 11)}

C9 S. 139 modified (W.) (5.12.2007) by The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (Wales) Regulations 2007 (S.I. 2007/3231), **reg. 11**

Commencement Information

I137 S. 139 wholly in force at 16.6.2006; s. 139 not in force at Royal Assent see s. 270(4)(5); s. 139 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 139 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

140 Contents of overcrowding notices

(1) An overcrowding notice must state in relation to each room in the HMO concerned—

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(a) what the local housing authority consider to be the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time; or

(b) that the local housing authority consider that the room is unsuitable to be occupied as sleeping accommodation.

(2) An overcrowding notice may specify special maxima applicable where some or all of the persons occupying a room are under such age as may be specified in the notice.

(3) An overcrowding notice must contain—

(a) the requirement prescribed by section 141 (not to permit excessive number of persons to sleep in the house in multiple occupation); or

(b) the requirement prescribed by section 142 (not to admit new residents if number of persons is excessive).

(4) The local housing authority may at any time—

(a) withdraw an overcrowding notice which has been served on any person and which contains the requirement prescribed by section 142, and

(b) serve on him instead an overcrowding notice containing the requirement prescribed by section 141.

Commencement Information

I138 S. 140 wholly in force at 16.6.2006; s. 140 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 140 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 140 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

141 Requirement as to overcrowding generally

(1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from—

(a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice; or

(b) permitting persons to occupy the HMO as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as husband and wife sleeping in the same room.

(2) For the purposes of subsection (1)(b)—

(a) children under the age of 10 are to be disregarded; and

(b) it must be assumed that the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

Commencement Information

I139 S. 141 wholly in force at 16.6.2006; s. 141 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 141 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 141 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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142 Requirement as to new residents

(1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from—

(a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice; or

(b) permitting a new resident to occupy any part of the HMO as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as husband and wife sleeping in the same room.

(2) In subsection (1) "new resident" means a person who was not an occupier of the HMO immediately before the notice was served.

(3) For the purposes of subsection (1)(b)—

(a) children under the age of 10 are to be disregarded; and

(b) it must be assumed that the persons occupying any part of the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

Commencement Information

I140 S. 142 wholly in force at 16.6.2006; s. 142 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 142 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 142 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

143 Appeals against overcrowding notices

(1) A person aggrieved by an overcrowding notice may appeal to aresidential property tribunal within the period of 21 days beginning with the date of service of the notice.

(2) Such an appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(3) On an appeal the tribunal may by order confirm, quash or vary the notice.

(4) If an appeal is brought, the notice does not become operative until—

(a) a decision is given on the appeal which confirms the notice and the period within which an appeal to the Lands Tribunal may be brought expires without any such appeal having been brought; or

(b) if an appeal is brought to the Lands Tribunal, a decision is given on the appeal which confirms the notice.

(5) For the purposes of subsection (4)—

(a) the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against; and

(b) references to a decision which confirms the notice are to a decision which confirms it with or without variation.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(6) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (1) if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Commencement Information

I141 S. 143 wholly in force at 16.6.2006; s. 143 not in force at Royal Assent see s. 270(4)(5); s. 143 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 143 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

144 Revocation and variation of overcrowding notices

(1) The local housing authority may at any time, on the application of a relevant person—
- (a) revoke an overcrowding notice; or
- (b) vary it so as to allow more people to be accommodated in the HMO concerned.

(2) The applicant may appeal to a residential property tribunal if the local housing authority—
- (a) refuse an application under subsection (1); or
- (b) do not notify the applicant of their decision within the period of 35 days beginning with the making of the application (or within such further period as the applicant may in writing allow).

(3) An appeal under subsection (2) must be made within—
- (a) the period of 21 days beginning with the date when the applicant is notified by the authority of their decision to refuse the application, or
- (b) the period of 21 days immediately following the end of the period (or further period) applying for the purposes of paragraph (b) of that subsection,

as the case may be.

(4) Section 143(2) applies to such an appeal as it applies to an appeal under that section.

(5) On an appeal the tribunal may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.

(6) A residential property tribunal may allow an appeal to be made to it after the end of the 21-day period mentioned in subsection (3)(a) or (b) if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal).

(7) In this section "relevant person" means—
- (a) any person who has an estate or interest in the HMO concerned, or
- (b) any other person who is a person managing or having control of it.

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Commencement Information

I142 S. 144 wholly in force at 16.6.2006; s. 144 not in force at Royal Assent see s. 270(4)(5); s. 144 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 144 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

CHAPTER 4

SUPPLEMENTARY PROVISIONS

145 Supplementary provisions

(1) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of Chapter 1 or 2 in relation to cases where a local housing authority are to be treated as the lessee under a lease under—

(a) section 107(5) or 116(5), or

(b) paragraph 2(6) or 10(6) of Schedule 7.

(2) Regulations under this section may, in particular, make provision—

(a) as respects rights and liabilities in such cases of—

(i) the authority,

(ii) the person who (apart from the relevant provision mentioned in subsection (1)) is the lessee under the lease, or

(iii) other persons having an estate or interest in the premises demised under the lease;

(b) requiring the authority to give copies to the person mentioned in paragraph (a)(ii) of notices and other documents served on them in connection with the lease;

(c) for treating things done by or in relation to the authority as done by or in relation to that person, or vice versa.

Commencement Information

I143 S. 145 wholly in force at 16.6.2006; s. 145 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 145 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 145 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

146 Interpretation and modification of this Part

(1) In this Part—

"HMO" means a house in multiple occupation as defined by sections 254 to 259,

"Part 3 house" means a house to which Part 3 of this Act applies (see section 79(2)),

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and any reference to an HMO or Part 3 house includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

(2) For the purposes of this Part "mortgage" includes a charge or lien, and "mortgagee" is to be read accordingly.

(3) The appropriate national authority may by regulations provide for—
  (a) any provision of this Part, or
  (b) section 263 (in its operation for the purposes of any such provision),
to have effect in relation to a section 257 HMO with such modifications as are prescribed by the regulations.

(4) A "section 257 HMO" is an HMO which is a converted block of flats to which section 257 applies.

Commencement Information

I144 S. 146 wholly in force at 16.6.2006; s. 146 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 146 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 146 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

147 Index of defined expressions: Part 4

The following table shows where expressions used in this Part are defined or otherwise explained.

Expression	*Provision of this Act*
Appropriate national authority	Section 261(1)
Dwelling	Section 132(4)(a) and (b)
Final EDMO	Section 132(1)(b)
Final management order	Section 101(4)
Health	Section 2(5)
HMO	Section 146(1)
The house	Section 101(5) or 103(8)
Immediate landlord	Section 109(6) or 118(6)
Interim EDMO	Section 132(1)(a)
Interim management order	Section 101(3)
Landlord	Section 262(3)
Lease, lessee, etc.	Section 262(1) to (4)
Licence (to occupy premises)	Section 262(9)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Local housing authority	Section 261(2) to (5)
Modifications	Section 250(7)
Mortgage, mortgagee	Section 146(2)
Occupier (and related expressions)	Section 262(6)
Owner	Section 262(7)
Part 3 house	Section 146(1)
Person having control	Section 263(1) and (2)
Person having estate or interest	Section 262(8)
Person managing	Section 263(3)
Relevant proprietor	Section 132(4)(c) and (5)
Rent or other payments (in Chapter 2)	Section 132(4)(e)
Residential property tribunal	Section 229
Tenancy, tenant, etc.	Section 262(1) to (5)
Third party (in Chapter 1)	Section 101(7)
Third party (in Chapter 2)	Section 132(4)(d).

Commencement Information

I145 S. 147 wholly in force at 16.6.2006; s. 147 not in force at Royal Assent see s. 270(4)(5); s. 147 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 147 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

PART 5

HOME INFORMATION PACKS

VALID FROM 01/08/2007

Preliminary

148 Meaning of "residential property" and "home information pack"

(1) In this Part—

"residential property" means premises in England and Wales consisting of a single dwelling-house, including any ancillary land; and

"dwelling-house" means a building or part of a building occupied or intended to be occupied as a separate dwelling (and includes one that is being or is to be constructed).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(2) References in this Part to a home information pack, in relation to a residential property, are to a collection of documents relating to the property or the terms on which it is or may become available for sale.

Commencement Information

I146 S. 148 wholly in force at 6.4.2008; s. 148 not in force at Royal Assent see s. 270(6); s. 148 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 148 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 148 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 148 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

149 Meaning of "on the market" and related expressions

(1) In this Part references to "the market" are to the residential property market in England and Wales.

(2) A residential property is put on the market when the fact that it is or may become available for sale is, with the intention of marketing the property, first made public in England and Wales by or on behalf of the seller.

(3) A residential property which has been put on the market is to be regarded as remaining on the market until it is taken off the market or sold.

(4) A fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or to a section of the public.

Commencement Information

I147 S. 149 wholly in force at 6.4.2008; s. 149 not in force at Royal Assent see s. 270(6); s. 149 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 149 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 149 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 149 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

150 Acting as estate agent

(1) A person acts as estate agent for the seller of a residential property if he does anything, in the course of a business in England and Wales, in pursuance of marketing instructions from the seller.

(2) For this purpose—

"business in England and Wales" means a business carried on (in whole or in part) from a place in England and Wales; and

"marketing instructions" means instructions to carry out any activities with a view to—

(a) effecting the introduction to the seller of a person wishing to buy the property; or

(b) selling the property by auction or tender.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(3) It is immaterial for the purposes of this section whether or not a person describes himself as an estate agent.

Commencement Information

I148 S. 150 wholly in force at 6.4.2008; s. 150 not in force at Royal Assent see s. 270(6); s. 150 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 150 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 150 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 150 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

VALID FROM 01/08/2007

Responsibility for marketing residential properties

151 Responsibility for marketing: general

(1) References in this Part to a responsible person, in relation to a residential property, are to any person who is for the time being responsible for marketing the property.

(2) Sections 152 and 153 identify for the purposes of this Part—

(a) the person or persons who are responsible for marketing a residential property which is on the market ("the property"); and

(b) when the responsibility of any such person arises and ceases.

(3) Only the seller or a person acting as estate agent for the seller may be responsible for marketing the property.

(4) A person may be responsible for marketing the property on more than one occasion.

Commencement Information

I149 S. 151 wholly in force at 6.4.2008; s. 151 not in force at Royal Assent see s. 270(6); s. 151 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 151 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 151 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 151 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

152 Responsibility of person acting as estate agent

(1) A person acting as estate agent becomes responsible for marketing the property when action taken by him or on his behalf—

(a) puts the property on the market; or

(b) makes public the fact that the property is on the market.

(2) That responsibility ceases when the following conditions are satisfied, namely—

(a) his contract with the seller is terminated (whether by the withdrawal of his instructions or otherwise);

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(b) he has ceased to take any action which makes public the fact that the property is on the market; and

(c) any such action being taken on his behalf has ceased.

(3) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

Commencement Information

I150 S. 152 wholly in force at 6.4.2008; s. 152 not in force at Royal Assent see s. 270(6); s. 152 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 152 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 152 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 152 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

153 Responsibility of the seller

(1) The seller becomes responsible for marketing the property when action taken by him or on his behalf—

(a) puts the property on the market; or

(b) makes public the fact that the property is on the market.

(2) That responsibility ceases when the following conditions are satisfied, namely—

(a) there is at least one person acting as his estate agent who is responsible for marketing the property;

(b) the seller has ceased to take any action which makes public the fact that the property is on the market; and

(c) any such action being taken on the seller's behalf has ceased.

(3) In this section the references to action taken on behalf of the seller exclude action taken by or on behalf of a person acting as his estate agent.

(4) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

Commencement Information

I151 S. 153 wholly in force at 6.4.2008; s. 153 not in force at Royal Assent see s. 270(6); s. 153 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 153 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 153 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 153 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

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VALID FROM 01/08/2007

Duties of a responsible person where a property is on the market

154 Application of sections 155 to 158

(1) Where a residential property is on the market, a person responsible for marketing the property is subject to the duties relating to home information packs that are imposed by sections 155 to 158 until his responsibility ceases.

(2) Each of those duties is subject to any exception relating to that duty which is provided for in those sections.

(3) The duty under section 156(1) is also subject to any condition imposed under section 157.

Commencement Information

I152 S. 154 wholly in force at 6.4.2008; s. 154 not in force at Royal Assent see s. 270(6); s. 154 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 154 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 154 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 154 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

155 Duty to have a home information pack

(1) It is the duty of a responsible person to have in his possession or under his control a home information pack for the property which complies with the requirements of any regulations under section 163.

(2) That duty does not apply where the responsible person is the seller at any time when—

(a) there is another person who is responsible for marketing the property under section 152; and

(b) the seller believes on reasonable grounds that the other responsible person has a home information pack for the property in his possession or under his control which complies with the requirements of any regulations under section 163.

Modifications etc. (not altering text)

C10 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2006 (S.I. 2006/1503), **regs. 24-30** (which amending S.I. was revoked (1.6.2007) by S.I. 2007/992, **reg. 2**)

C11 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2007 (S.I. 2007/992), **regs. 28-34**

C12 Ss. 155-159 restricted (2.7.2007) by The Home Information Pack (No. 2) Regulations 2007 (S.I. 2007/1667), **regs. 27-34**

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I153 S. 155 wholly in force at 6.4.2008; s. 155 not in force at Royal Assent see s. 270(6); s. 155 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 155 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 155 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 155 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2**

156 Duty to provide copy of home information pack on request

(1) Where a potential buyer makes a request to a responsible person for a copy of the home information pack, or of a document (or part of a document) which is or ought to be included in that pack, it is the duty of the responsible person to comply with that request within the permitted period.

(2) The responsible person does not comply with that duty unless—

(a) he provides the potential buyer with a document which is—

(i) a copy of the home information pack for the property as it stands at the time when the document is provided, or

(ii) a copy of a document (or part of a document) which is included in that pack,

as the case may be; and

(b) that pack or document complies with the requirements of any regulations under section 163 at that time.

(3) In subsection (2) "the home information pack" means the home information pack intended by the responsible person to be the one required by section 155.

(4) That duty does not apply if, before the end of the permitted period, the responsible person believes on reasonable grounds that the person making the request—

(a) is unlikely to have sufficient means to buy the property in question;

(b) is not genuinely interested in buying a property of a general description which applies to the property; or

(c) is not a person to whom the seller is likely to be prepared to sell the property.

Nothing in this subsection authorises the doing of anything which constitutes an unlawful act of discrimination.

(5) Subsection (4) does not apply if the responsible person knows or suspects that the person making the request is an officer of an enforcement authority.

(6) That duty does not apply where the responsible person is the seller if, when the request is made, the duty under section 155 does not (by virtue of subsection (2) of that section) apply to him.

(7) But where the duty under this section is excluded by subsection (6), it is the duty of the seller to take reasonable steps to inform the potential buyer that the request should be made to the other person.

(8) The responsible person may charge a sum not exceeding the reasonable cost of making and, if requested, sending a paper copy of the pack or document.

(9) The permitted period for the purposes of this section is (subject to section 157(5)) the period of 14 days beginning with the day on which the request is made.

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(10) If the responsible person ceases to be responsible for marketing the property before the end of the permitted period (whether because the property has been taken off the market or sold or for any other reason), he ceases to be under any duty to comply with the request.

(11) A person does not comply with the duty under this section by providing a copy in electronic form unless the potential buyer consents to receiving it in that form.

Modifications etc. (not altering text)

C13 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2006 (S.I. 2006/1503), **regs. 24-30** (which amending S.I. was revoked (1.6.2007) by S.I. 2007/992, **reg. 2**)

C14 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2007 (S.I. 2007/992), **regs. 28-34**

C15 Ss. 155-159 restricted (2.7.2007) by The Home Information Pack (No. 2) Regulations 2007 (S.I. 2007/1667), **regs. 27-34**

Commencement Information

I154 S. 156 wholly in force at 6.4.2008; s. 156 not in force at Royal Assent see s. 270(6); s. 156 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 156 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 156 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 156 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2**

157 Section 156 (1) duty: imposition of conditions

(1) A potential buyer who has made a request to which section 156(1) applies may be required to comply with either or both of the following conditions before any copy is provided.

(2) The potential buyer may be required to pay a charge authorised by section 156(8).

(3) The potential buyer may be required to accept any terms specified in writing which—
- (a) are proposed by the seller or in pursuance of his instructions; and
- (b) relate to the use or disclosure of the copy (or any information contained in or derived from it).

(4) A condition is only effective if it is notified to the potential buyer before the end of the period of 14 days beginning with the day on which the request is made.

(5) Where the potential buyer has been so notified of either or both of the conditions authorised by this section, the permitted period for the purposes of section 156 is the period of 14 days beginning with—
- (a) where one condition is involved, the day on which the potential buyer complies with it by—
  - (i) making the payment demanded, or
  - (ii) accepting the terms proposed (or such other terms as may be agreed between the seller and the potential buyer in substitution for those proposed),

  as the case may be; or

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(b) where both conditions are involved, the day (or the later of the days) on which the potential buyer complies with them by taking the action mentioned in paragraph (a)(i) and (ii).

Modifications etc. (not altering text)

C16 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2006 (S.I. 2006/1503), **regs. 24-30** (which amending S.I. was revoked (1.6.2007) by S.I. 2007/992, **reg. 2**)

C17 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2007 (S.I. 2007/992), **regs. 28-34**

C18 Ss. 155-159 restricted (2.7.2007) by The Home Information Pack (No. 2) Regulations 2007 (S.I. 2007/1667), **regs. 27-34**

Commencement Information

I155 S. 157 wholly in force at 6.4.2008; s. 157 not in force at Royal Assent see s. 270(6); s. 157 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 157 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 157 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 157 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2**

158 Duty to ensure authenticity of documents in other situations

(1) Where a responsible person provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be—

(a) a copy of the home information pack for the property, or

(b) a copy of a document (or part of a document) included in that pack,

the responsible person is under a duty to ensure that the document is authentic.

(2) A document is not authentic for the purposes of subsection (1) unless, at the time when it is provided or inspected—

(a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and

(b) that pack or document complies with the requirements of any regulations under section 163.

(3) In subsection (2) "the home information pack" means the pack intended by the responsible person to be the one required by section 155.

(4) The duty under this section does not apply to anything provided in pursuance of the duty under section 156.

Modifications etc. (not altering text)

C19 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2006 (S.I. 2006/1503), **regs. 24-30** (which amending S.I. was revoked (1.6.2007) by S.I. 2007/992, **reg. 2**)

C20 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2007 (S.I. 2007/992), **regs. 28-34**

C21 Ss. 155-159 restricted (2.7.2007) by The Home Information Pack (No. 2) Regulations 2007 (S.I. 2007/1667), **regs. 27-34**

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I156 S. 158 wholly in force at 6.4.2008; s. 158 not in force at Royal Assent see s. 270(6); s. 158 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 158 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 158 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 158 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2**

VALID FROM 01/08/2007

Other duties of person acting as estate agent

159 Other duties of person acting as estate agent

(1) This section applies to a person acting as estate agent for the seller of a residential property where—

(a) the property is not on the market; or

(b) the property is on the market but the person so acting is not a person responsible for marketing the property.

(2) It is the duty of a person to whom this section applies to have in his possession or under his control, when any qualifying action is taken by him or on his behalf, a home information pack for the property which complies with the requirements of any regulations under section 163.

(3) In subsection (2) "qualifying action" means action taken with the intention of marketing the property which—

(a) communicates to any person in England and Wales the fact that the property is or may become available for sale; but

(b) does not put the property on the market or make public the fact that the property is on the market.

(4) Where a person to whom this section applies provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be—

(a) a copy of the home information pack for the property; or

(b) a copy of a document (or part of a document) included in that pack;

it is his duty to ensure that it is an authentic copy.

(5) A document is not authentic for the purposes of subsection (4) unless, at the time when it is provided or inspected—

(a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and

(b) that pack or document complies with the requirements of any regulations under section 163.

(6) In subsection (5) "the home information pack" means the home information pack intended by the person to whom this section applies to be the one required by subsection (2).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Modifications etc. (not altering text)

C22 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2006 (S.I. 2006/1503), **regs. 24-30** (which amending S.I. was revoked (1.6.2007) by S.I. 2007/992, **reg. 2**)

C23 Ss. 155-159 restricted (1.6.2007) by The Home Information Pack Regulations 2007 (S.I. 2007/992), **regs. 28-34**

C24 Ss. 155-159 restricted (2.7.2007) by The Home Information Pack (No. 2) Regulations 2007 (S.I. 2007/1667), **regs. 27-34**

Commencement Information

I157 S. 159 wholly in force at 6.4.2008; s. 159 not in force at Royal Assent see s. 270(6); s. 159 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 159 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 159 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 159 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2**

Exceptions from the duties

VALID FROM 01/08/2007

160 Residential properties not available with vacant possession

(1) The duties under sections 155 to 159 do not apply in relation to a residential property at any time when it is not available for sale with vacant possession.

(2) But for the purposes of this Part a residential property shall be presumed to be available with vacant possession, at any time when any of those duties would apply in relation to the property if it is so available, unless the contrary appears from the manner in which the property is being marketed at that time.

Commencement Information

I158 S. 160 wholly in force at 6.4.2008; s. 160 not in force at Royal Assent see s. 270(6); s. 160 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 160 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 160 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 160 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

161 Power to provide for further exceptions

The Secretary of State may by regulations provide for other exceptions from any duty under sections 155 to 159 in such cases and circumstances, and to such extent, as may be specified in the regulations.

162 Suspension of duties under sections 155 to 159

(1) The Secretary of State may make an order suspending (or later reviving) the operation of any duty imposed by sections 155 to 159.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) An order under this section may provide for the suspension of a duty to take effect only for a period specified in the order.

(3) A duty which is (or is to any extent) revived after being suspended under this section is liable to be suspended again.

Contents of home information packs

163 Contents of home information packs

(1) The Secretary of State may make regulations prescribing—
- (a) the documents which are required or authorised to be included in the home information pack for a residential property; and
- (b) particular information which is required or authorised to be included in, or which is to be excluded from, any such document.

(2) A document prescribed under subsection (1) must be one that the Secretary of State considers would disclose relevant information.

(3) Any particular information required or authorised to be included in a prescribed document must be information that the Secretary of State considers to be relevant information.

(4) In this section "relevant information" means information about any matter connected with the property (or the sale of the property) that would be of interest to potential buyers.

(5) Without prejudice to the generality of subsection (4), the information which the Secretary of State may consider to be relevant information includes any information about—
- (a) the interest which is for sale and the terms on which it is proposed to sell it;
- (b) the title to the property;
- (c) anything relating to or affecting the property that is contained in—
  - (i) a register required to be kept by or under any enactment (whenever passed); or
  - (ii) records kept by a person who can reasonably be expected to give information derived from those records to the seller at his request (on payment, if required, of a reasonable charge);
- (d) the physical condition of the property (including any particular characteristics or features of the property);
- (e) the energy efficiency of the property;
- (f) any warranties or guarantees subsisting in relation to the property;
- (g) any taxes, service charges or other charges payable in relation to the property.

(6) The regulations may require or authorise the home information pack to include—
- (a) replies the seller proposes to give to prescribed pre-contract enquiries; and
- (b) documents or particular information indexing or otherwise explaining the contents of the pack.

(7) The regulations may require a prescribed document—
- (a) to be in such form as may be prescribed; and

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(b) to be prepared by a person of a prescribed description on such terms (if any) as may be prescribed.

(8) The terms mentioned in subsection (7)(b) may include terms which enable provisions of the contract under which the document is to be prepared to be enforced by—
(a) a potential or actual buyer;
(b) a mortgage lender; or
(c) any other person involved in the sale of the property who is not a party to that contract.

(9) The regulations may—
(a) provide for the time at which any document is to be included in or removed from the home information pack; and
(b) make different provision for different areas, for different descriptions of properties or for other different circumstances (including the manner in which a residential property is marketed).

(10) In this section "prescribed" means prescribed by regulations under this section.

164 Home condition reports

(1) Regulations under section 163 may make the provision mentioned in this section in relation to any description of document dealing with matters mentioned in section 163(5)(d) or (e) (reports on physical condition or energy efficiency) which is to be included in the home information pack.

(2) In this section "home condition report" means a document of that description.

(3) The regulations may require a home condition report to be made by an individual who is a member of an approved certification scheme following an inspection carried out by him in accordance with the provisions of the scheme.

(4) The regulations shall, if the provision mentioned in subsection (3) is made, make provision for the approval by the Secretary of State of one or more suitable certification schemes (and for the withdrawal by him of any such approval).

(5) The regulations shall require the Secretary of State to be satisfied, before approving a certification scheme, that the scheme contains appropriate provision—
(a) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to produce home condition reports;
(b) for ensuring that members of the scheme have in force suitable indemnity insurance;
(c) for facilitating the resolution of complaints against members of the scheme;
(d) for requiring home condition reports made by members of the scheme to be entered on the register mentioned in section 165;
(e) for the keeping of a public register of the members of the scheme; and
(f) for such other purposes as may be specified in the regulations.

(6) Subsection (5)(d) only applies where provision for a register of home condition reports is made under section 165.

(7) The regulations may require or authorise an approved certification scheme to contain provision about any matter relating to the home condition reports with which the

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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scheme is concerned (including the terms on which members of the scheme may undertake to produce a home condition report).

(8) Nothing in this section limits the power under section 163 to make provision about home condition reports in the regulations.

VALID FROM 01/08/2007

Register of home condition reports

165 Register of home condition reports

(1) Where the provision mentioned in section 164(3) is made in relation to an approved certification scheme, regulations under section 163 may make provision for and in connection with a register of the home condition reports made by members of the scheme.

(2) The regulations may provide for the register to be kept—
  (a) by (or on behalf of) the Secretary of State; or
  (b) by such other person as the regulations may specify.

(3) The regulations may require a person wishing to enter a home condition report onto the register to pay such fee as may be prescribed.

(4) No person may disclose—
  (a) the register or any document (or part of a document) contained in it; or
  (b) any information contained in, or derived from, the register,

except in accordance with any provision of the regulations which authorises or requires such a disclosure to be made.

(5) The provision which may be made under subsection (1) includes (without prejudice to the generality of that subsection) provision as to circumstances in which or purposes for which a person or a person of a prescribed description—
  (a) may (on payment of such fee, if any, as may be prescribed)—
    (i) inspect the register or any document (or part of a document) contained in it;
    (ii) take or be given copies of the register or any document (or part of a document) contained in it; or
    (iii) be given information contained in, or derived from, the register; or
  (b) may disclose anything obtained by virtue of provision made under paragraph (a).

(6) The purposes which may be so prescribed may be public purposes or purposes of private undertakings or other persons.

(7) A person who contravenes subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) Nothing in this section limits the power to make regulations under section 163.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I159 S. 165 wholly in force at 6.4.2008; s. 165 not in force at Royal Assent see s. 270(6); s. 165 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 165 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 165 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 165 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

VALID FROM 01/08/2007

Enforcement

166 Enforcement authorities

(1) Every local weights and measures authority is an enforcement authority for the purposes of this Part.

(2) It is the duty of each enforcement authority to enforce—
  (a) the duties under sections 155 to 159 and 167(4), and
  (b) any duty imposed under section 172(1),
in their area.

Commencement Information

I160 S. 166 wholly in force at 6.4.2008; s. 166 not in force at Royal Assent see s. 270(6); s. 166 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 166 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 166 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 166 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

167 Power to require production of home information packs

(1) An authorised officer of an enforcement authority may require a person who appears to him to be or to have been subject to the duty under section 155 or 159(2), in relation to a residential property, to produce for inspection a copy of, or of any document included in, the home information pack for that property.

(2) The power conferred by subsection (1) includes power—
  (a) to require the production in a visible and legible documentary form of any document included in the home information pack in question which is held in electronic form; and
  (b) to take copies of any document produced for inspection.

(3) A requirement under this section may not be imposed more than six months after the last day on which the person concerned was subject to the duty under section 155 or 159(2) in relation to the property (as the case may be).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(4) Subject to subsection (5), it is the duty of a person subject to such a requirement to comply with it within the period of 7 days beginning with the day after that on which it is imposed.

(5) A person is not required to comply with such a requirement if he has a reasonable excuse for not complying with the requirement.

(6) In this section "the home information pack" means—

(a) where a requirement under this section is imposed on a person at a time when he is subject to the duty under section 155 or 159(2), the home information pack intended by him to be the one he is required to have at that time; or

(b) in any other case, the home information pack intended by the person concerned, when he was last subject to the duty under section 155 or 159(2), to be the one he was required to have at that time.

Commencement Information

I161 S. 167 wholly in force at 6.4.2008; s. 167 not in force at Royal Assent see s. 270(6); s. 167 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 167 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 167 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 167 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

168 Penalty charge notices

(1) An authorised officer of an enforcement authority may, if he believes that a person has committed a breach of—

(a) any duty under sections 155 to 159 and 167(4), or

(b) any duty imposed under section 172(1),

give a penalty charge notice to that person.

(2) A penalty charge notice may not be given after the end of the period of six months beginning with the day (or in the case of a continuing breach the last day) on which the breach of duty was committed.

(3) Schedule 8 (which makes further provision about penalty charge notices) has effect.

Modifications etc. (not altering text)

C25 S. 168(1)(a) restricted (1.6.2007) by The Home Information Pack Regulations 2006 (S.I. 2006/1503), **reg. 32** (which amending S.I. was revoked (1.6.2007) by S.I. 2007/992, **reg. 2**)

C26 S. 168(1)(a) restricted (1.6.2007) by The Home Information Pack Regulations 2007 (S.I. 2007/992), **reg. 36**

C27 S. 168(1)(a) restricted (2.7.2007) by The Home Information Pack (No. 2) Regulations 2007 (S.I. 2007/1667), **reg. 36**

Commencement Information

I162 S. 168 wholly in force at 6.4.2008; s. 168 not in force at Royal Assent see s. 270(6); s. 168 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 168 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 168 in force for certain purposes at 14.12.2007 by S.I.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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2007/3308, **arts. 2-4**; s. 168 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

169 Offences relating to enforcement officers

(1) A person who obstructs an officer of an enforcement authority acting in pursuance of section 167 is guilty of an offence.

(2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 167 or 168 is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I163 S. 169 wholly in force at 6.4.2008; s. 169 not in force at Royal Assent see s. 270(6); s. 169 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 169 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 169 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 169 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

170 Right of private action

(1) This section applies where a person ("the responsible person") has committed a breach of duty under section 156 by failing to comply with a request from a potential buyer of a residential property for a copy of a prescribed document.

(2) If the potential buyer commissions his own version of the prescribed document at a time when both of the conditions mentioned below are satisfied, he is entitled to recover from the responsible person any reasonable fee paid by him in order to obtain the document.

(3) The first condition is that—
- (a) the property is on the market; or
- (b) the potential buyer and the seller are attempting to reach an agreement for the sale of the property.

(4) The second condition is that the potential buyer has not been provided with an authentic copy of the prescribed document.

(5) A copy of a prescribed document is not authentic for the purposes of subsection (4) unless—
- (a) it is a copy of a document included in the home information pack for the property as it stands at the time the copy is provided to the potential buyer; and
- (b) the document so included complies with the requirements of any regulations under section 163 at that time.

(6) In subsection (5) "the home information pack" means the home information pack intended by the responsible person to be the one required by section 155.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(7) In this section "prescribed document" means a document (being one required to be included in the home information pack by regulations under section 163) which is prescribed by regulations made by the Secretary of State for the purposes of this section.

(8) It is immaterial for the purposes of this section that the request in question did not specify the prescribed document but was for a copy of the home information pack or a part of the pack which included (or ought to have included) that document.

Commencement Information

I164 S. 170 wholly in force at 6.4.2008; s. 170 not in force at Royal Assent see s. 270(6); s. 170 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 170 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 170 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 170 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

Supplementary

VALID FROM 01/08/2007

171 Application of Part to sub-divided buildings

(1) This section applies where—

(a) two or more dwelling-houses in a sub-divided building are marketed for sale (with any ancillary land) as a single property; and

(b) any one or more of those dwelling-houses—

(i) is not available for sale (with any ancillary land) as a separate residential property; but

(ii) is available with vacant possession.

(2) This Part applies to the dwelling-houses mentioned in subsection (1)(a) (with any ancillary land) as if—

(a) they were a residential property, and

(b) section 160 were omitted.

(3) Subsection (2) does not affect the application of this Part to any of those dwelling-houses which is available for sale (with any ancillary land) as a separate residential property.

(4) In this section "sub-divided building" means a building or part of a building originally constructed or adapted for use as a single dwelling which has been divided (on one or more occasions) into separate dwelling-houses.

Commencement Information

I165 S. 171 wholly in force at 6.4.2008; s. 171 not in force at Royal Assent see s. 270(6); s. 171 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 171 in force for certain purposes

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 171 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 171 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

172 Power to require estate agents to belong to a redress scheme

(1) The Secretary of State may by order require every estate agent to be a member of an approved redress scheme.

(2) Acting as estate agent for the seller of a residential property in contravention of such an order is a breach of duty under this Part.

(3) Before making such an order the Secretary of State must be satisfied that he has approved one or more redress schemes such that every estate agent who is (or will be) subject to the duty imposed by the order is eligible to join an approved redress scheme.

For this purpose "estate agent" does not include a person who is (by virtue of a prohibition imposed by or under the Estate Agents Act 1979 (c. 38)) unable lawfully to act as estate agent for the seller of a residential property.

(4) An order under this section may—

(a) exclude estate agents of a prescribed description from any duty imposed under subsection (1);

(b) limit any duty so imposed so that it applies only in relation to relevant complaints of a prescribed description.

(5) Nothing in this section is to be taken as preventing an approved redress scheme from providing—

(a) for membership to be open to persons who are not subject to any duty to belong to an approved redress scheme;

(b) for the investigation and determination of complaints, other than those in relation to which such a duty applies, made against members who have voluntarily accepted the jurisdiction of the scheme over such complaints;

(c) for the exclusion from investigation and determination under the scheme of any complaint in such cases or circumstances as may be specified in the scheme.

(6) In this section and sections 173 and 174—

"approved redress scheme" means a redress scheme that is for the time being approved under section 173;

"estate agent" means a person who acts as estate agent for sellers of residential properties for which a home information pack is (or will be) required under this Part;

"redress scheme" means a scheme under which certain relevant complaints may be investigated and determined by an independent person (referred to in those sections as "the ombudsman"); and

"relevant complaint" means a complaint against an estate agent which—

(a) is made by a person who at the material time is the seller or a potential buyer of a residential property; and

(b) relates to an act or omission affecting the complainant in the course of the estate agent's activities in relation to a home information pack that

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is (or will be) required for that property (including the giving of advice as to whether such a pack is required).

(7) For the purposes of the law relating to defamation, proceedings under an approved redress scheme in relation to the investigation and determination of a complaint which is subject to an order under this section are to be treated in the same way as proceedings before a court.

Commencement Information

I166 S. 172 wholly in force at 6.4.2008; s. 172 in force at Royal Assent for certain purposes see s. 270(2)(b); s. 172 in force for certain purposes at 1.8.2007 by S.I. 2007/1668, **arts. 2-4**; s. 172 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 172 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 172 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

VALID FROM 01/08/2007

173 Approval of redress schemes

(1) If the Secretary of State considers that a redress scheme (including one made by him or in pursuance of arrangements made by him) is satisfactory for the purposes of section 172, he may approve it for those purposes.

(2) In determining whether a redress scheme is satisfactory the Secretary of State shall have regard to—

(a) the provisions of the scheme;

(b) the manner in which the scheme will be operated (so far as can be judged from the facts known to him); and

(c) the respective interests of members of the scheme and of sellers and potential buyers of residential properties.

(3) A redress scheme may not be approved unless it makes satisfactory provision about the following matters (among other things)—

(a) the matters about which complaints may be made (which may include non-compliance with the provisions of a code of practice or other document);

(b) the ombudsman's duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a complaint);

(c) the provision of information by the ombudsman to—

(i) persons exercising functions under other schemes providing a means of redress for consumers; and

(ii) the Secretary of State or any other person exercising regulatory functions in relation to the activities of estate agents.

(4) An application for approval of a redress scheme shall be made in such manner as the Secretary of State may determine, accompanied by such information as the Secretary of State may require.

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(5) The person administering an approved redress scheme shall notify the Secretary of State of any change to the scheme as soon as practicable after the change is made.

Commencement Information

I167 S. 173 wholly in force at 6.4.2008; s. 173 not in force at Royal Assent see s. 270(6); s. 173 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 173 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 173 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 173 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

VALID FROM 01/08/2007

174 Withdrawal of approval of redress schemes

(1) The Secretary of State may withdraw his approval of a redress scheme.

(2) But before withdrawing his approval, the Secretary of State shall serve on the person administering the scheme a notice stating—

(a) that he proposes to withdraw his approval;

(b) the grounds for the proposed withdrawal of approval; and

(c) that representations about the proposed withdrawal may be made within such period of not less than 14 days as is specified in the notice.

(3) The Secretary of State shall give notice of his decision on a proposal to withdraw approval, with his reasons, to the person administering the scheme.

(4) Withdrawal of approval has effect from such date as may be specified in that notice.

(5) The person administering the scheme shall give a copy of a notice under subsection (3) to every member of the scheme.

Commencement Information

I168 S. 174 wholly in force at 6.4.2008; s. 174 not in force at Royal Assent see s. 270(6); s. 174 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 174 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 174 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 174 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

VALID FROM 01/08/2007

175 Office of Fair Trading

(1) An enforcement authority may notify the Office of Fair Trading of any breach of duty under this Part appearing to the authority to have been committed by a person acting as estate agent.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(2) An enforcement authority shall notify the Office of Fair Trading of—

(a) any penalty charge notice given by an officer of the authority under section 168;

(b) any notice given by the authority confirming or withdrawing a penalty charge notice; and

(c) the result of any appeal from the confirmation of a penalty charge notice.

(3) The Estate Agents Act 1979 (c. 38) applies in relation to a person who has committed a breach of duty under this Part in the course of estate agency work (within the meaning of that Act) as it applies in relation to a person who has engaged in a practice such as is mentioned in section 3(1)(d) of that Act in the course of such work.

Commencement Information

I169 S. 175 wholly in force at 6.4.2008; s. 175 not in force at Royal Assent see s. 270(6); s. 175 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 175 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 175 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 175 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

176 Grants

(1) The Secretary of State may make grants towards expenditure incurred by any person in connection with—

(a) the development of proposals for any provision to be made by regulations under section 163;

(b) the development of schemes which are intended to be certification schemes for the purposes of any provision made or expected to be made in regulations under section 163 by virtue of section 164; or

(c) the development of a register for the purposes of any provision made or expected to be made in regulations under section 163 by virtue of section 165.

(2) A grant under this section may be made on conditions, which may include (among other things)—

(a) conditions as to the purposes for which the grant or any part of it may be used; and

(b) conditions requiring the repayment of the grant or any part of it in such circumstances as may be specified in the conditions.

VALID FROM 01/08/2007

177 Interpretation of Part 5

(1) In this Part—

"ancillary land", in relation to a dwelling-house or a sub-divided building, means any land intended to be occupied and enjoyed together with that dwelling-house or building;

"long lease" means—

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(a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; or

(b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease;

and for this purpose "lease" does not include a mortgage term;

"potential buyer" means a person who claims that he is or may become interested in buying a residential property;

"sale", in relation to a residential property, means a disposal, or agreement to dispose, by way of sale of—

(a) the freehold interest;

(b) the interest under a long lease;

(c) an option to acquire the freehold interest or the interest under a long lease;

and "seller" means a person contemplating disposing of such an interest (and related expressions shall be construed accordingly).

(2) Any reference in the definition of "sale" to the disposal of an interest of a kind mentioned in that definition includes a reference to the creation of such an interest.

(3) A document which is not in electronic form is only to be regarded for the purposes of this Part as being under the control of a person while it is in the possession of another if he has the right to take immediate possession of the document on demand (and without payment).

(4) A document held in electronic form is only to be regarded for the purposes of this Part as being in a person's possession or under his control if he is readily able (using equipment available to him)—

(a) to view the document in a form that is visible and legible; and

(b) to produce copies of it in a visible and legible documentary form.

Commencement Information

I170 S. 177 wholly in force at 6.4.2008; s. 177 not in force at Royal Assent see s. 270(6); s. 177 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 177 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 177 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 177 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

VALID FROM 01/08/2007

178 Index of defined expressions: Part 5

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions inserted in the right-hand column.

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Expression	***Provision of this Act***
Acting as estate agent for the seller	Section 150
Ancillary land	Section 177(1)
Control of documents	Section 177(3) and (4)
Dwelling-house	Section 148(1)
Enforcement authority	Section 166
Home information pack	Section 148(2)
Long lease	Section 177(1)
Make public	Section 149(4)
Possession of electronic documents	Section 177(4)
Potential buyer	Section 177(1)
Putting on the market	Section 149(2)
Remaining on the market	Section 149(3)
Residential property	Section 148(1)
Responsible person	Section 151(1)
Sale (and related expressions)	Section 177(1)
Seller (and related expressions)	Section 177(1)
The market	Section 149(1).

Commencement Information

I171 S. 178 wholly in force at 6.4.2008; s. 178 not in force at Royal Assent see s. 270(6); s. 178 in force for certain purposes at 1.8.2007 by S. I. 2007/1668, **arts. 2-4**; s. 178 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, **arts. 2-4**; s. 178 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, **arts. 2-4**; s. 178 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, **art. 2(1)**

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

Introductory tenancies

179 Extension of introductory tenancies

(1) Part 5 of the Housing Act 1996 (c. 52) (conduct of tenants) is amended as follows.

(2) In section 125(2) (trial period for introductory tenancy to be one year) for "subject as follows" substitute " but this is subject to subsections (3) and (4) and to section 125A (extension of trial period by 6 months). "

(3) After section 125 insert—

"**125A Extension of trial period by 6 months**

(1) If both of the following conditions are met in relation to an introductory tenancy, the trial period is extended by 6 months.

(2) The first condition is that the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date.

(3) The second condition is that either—
  (a) the tenant has not requested a review under section 125B in accordance with subsection (1) of that section, or
  (b) if he has, the decision on the review was to confirm the landlord's decision to extend the trial period.

(4) A notice of extension is a notice—
  (a) stating that the landlord has decided that the period for which the tenancy is to be an introductory tenancy should be extended by 6 months, and
  (b) complying with subsection (5).

(5) A notice of extension must—
  (a) set out the reasons for the landlord's decision, and
  (b) inform the tenant of his right to request a review of the landlord's decision and of the time within which such a request must be made.

(6) In this section and section 125B "the original expiry date" means the last day of the period of one year that would apply as the trial period apart from this section.

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125B Review of decision to extend trial period

(1) A request for review of the landlord's decision that the trial period for an introductory tenancy should be extended under section 125A must be made before the end of the period of 14 days beginning with the day on which the notice of extension is served.

(2) On a request being duly made to it, the landlord shall review its decision.

(3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

(4) Provision may be made by regulations—

(a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and

(b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.

(5) The landlord shall notify the tenant of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

(6) The review shall be carried out and the tenant notified before the original expiry date."

(4) The amendments made by this section do not apply in relation to any tenancy entered into before, or in pursuance of an agreement made before, the day on which this section comes into force.

Commencement Information

I172 S. 179 wholly in force at 25.11.2005; s. 179(3) in force for certain purposes at Royal Assent see s. 270(2)(b); s. 179 in force for E. at 6.6.2005 by S.I. 2005/1451, **art. 2(a)**; s. 179 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(f)**

VALID FROM 18/01/2005

Right to buy: when exercisable

180 Extension of qualifying period for right to buy

(1) In section 119(1) of the Housing Act 1985 (c. 68) (qualifying period for right to buy) for "two" substitute " five ".

(2) In subsection (2)(a) of section 129 of that Act (discount)—

(a) for "two" substitute " five "; and

(b) for "32 per cent" substitute " 35 per cent ".

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(3) In subsection (2)(b) of that section—
  (a) for "two", where it appears for the second time, substitute " five "; and
  (b) for "44 per cent" substitute " 50 per cent ".

(4) In subsection (2A)(b) of that section for "two" substitute " five ".

(5) The amendments made by this section do not apply in relation to a secure tenancy—
  (a) if the tenancy was entered into before, or in pursuance of an agreement made before, the day on which this section comes into force, or
  (b) if paragraph (a) does not apply but the tenant is a public sector tenant on that day and does not cease to be such a tenant at any time before serving a notice in respect of the tenancy under section 122 of that Act.

(6) In subsection (5) "public sector tenant" has the same meaning as in Schedule 4 to that Act.

VALID FROM 04/07/2005

181 Exceptions to the right to buy: determination whether exception for dwelling-house suitable for elderly persons applies

(1) In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy) paragraph 11 (single dwelling-house particularly suitable for elderly persons) is amended as follows.

(2) In sub-paragraph (4) (questions arising under paragraph 11 to be determined by the Secretary of State), for "the Secretary of State" (in both places) substitute " the appropriate tribunal or authority ".

(3) After sub-paragraph (5) insert—

"(5A) In this paragraph "the appropriate tribunal or authority" means—
  (a) in relation to England, a residential property tribunal; and
  (b) in relation to Wales, the Secretary of State.

(5B) Section 231 of the Housing Act 2004 (appeals to Lands Tribunal) does not apply to any decision of a residential property tribunal under this paragraph."

(4) Subsections (5) and (6) apply to any application under paragraph 11(4) in respect of a dwelling-house in England which—
  (a) has been made to the Secretary of State before the day on which this section comes into force, and
  (b) has not been determined by him before that day.

(5) If the application was made more than 28 days before that day, it is to be determined by the Secretary of State as if the amendments made by this section had not come into force.

(6) Otherwise—
  (a) the application is to be determined by a residential property tribunal, and

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(b) the Secretary of State must make all such arrangements as he considers necessary for the purpose of, or in connection with, enabling it to be so determined.

Commencement Information

I173 S. 181 partly in force; s. 181 not in force at Royal Assent see s. 270(4)(5); s. 181 in force for E. at 4.7.2005 by S.I. 2005/1729, **art. 2(a)** (subject to art. 3)

182 Exceptions to the right to buy: houses due to be demolished

(1) In Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy) after paragraph 12 insert—

"**Dwelling-house due to be demolished within 24 months**

13 (1) The right to buy does not arise if a final demolition notice is in force in respect of the dwelling-house.

(2) A "final demolition notice" is a notice—

(a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it ("the relevant premises"),

(b) setting out the reasons why the landlord intends to demolish the relevant premises,

(c) specifying—

(i) the date by which he intends to demolish those premises ("the proposed demolition date"), and

(ii) the date when the notice will cease to be in force (unless extended under paragraph 15),

(d) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the notice (specifying the condition concerned), and

(e) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.

(3) If, at the time when the notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall (instead of complying with sub-paragraph (2)(e)) state—

(a) that that claim ceases to be effective on the notice coming into force, but

(b) that section 138C confers a right to compensation in respect of certain expenditure,

and the notice shall also give details of that right to compensation and of how it may be exercised.

(4) The proposed demolition date must fall within the period of 24 months beginning with the date of service of the notice on the tenant.

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(5) For the purposes of this paragraph a final demolition notice is in force in respect of the dwelling-house concerned during the period of 24 months mentioned in sub-paragraph (4), but this is subject to—

(a) compliance with the conditions in sub-paragraphs (6) and (7) (in a case to which they apply), and

(b) the provisions of paragraph 15(1) to (7).

(6) If—

(a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and

(b) the landlord intends to demolish the whole of the building,

the landlord must have served a final demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as "the occupier").

An accidental omission to serve a final demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.

(7) A notice stating that the landlord intends to demolish the relevant premises must have appeared—

(a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and

(b) in any newspaper published by the landlord, and

(c) on the landlord's website (if he has one).

(8) The notice mentioned in sub-paragraph (7) must contain the following information—

(a) sufficient information to enable identification of the premises that the landlord intends to demolish;

(b) the reasons why the landlord intends to demolish those premises;

(c) the proposed demolition date;

(d) the date when any final demolition notice or notices relating to those premises will cease to be in force, unless extended or revoked under paragraph 15;

(e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them;

(f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.

(9) In this paragraph and paragraphs 14 and 15 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, or of a reference to the acquisition or transfer of any premises, includes a reference to a superior landlord.

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14 (1) A final demolition notice may only be served for the purposes of paragraph 13 if one of conditions A to C is satisfied in relation to the notice.

(2) Condition A is that the proposed demolition of the dwelling-house does not form part of a scheme involving the demolition of other premises.

(3) Condition B is that—

(a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, but

(b) none of those other premises needs to be acquired by the landlord in order for the landlord to be able to demolish them.

(4) Condition C is that—

(a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, and

(b) one or more of those premises need to be acquired by the landlord in order for the landlord to be able to demolish them, but

(c) in each case arrangements for their acquisition are in place.

(5) For the purposes of sub-paragraph (4) arrangements for the acquisition of any premises are in place if—

(a) an agreement under which the landlord is entitled to acquire the premises is in force, or

(b) a notice to treat has been given in respect of the premises under section 5 of the Compulsory Purchase Act 1965, or

(c) a vesting declaration has been made in respect of the premises under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.

(6) In this paragraph—

"premises" means premises of any description;

"scheme" includes arrangements of any description.

15 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a final demolition notice is in force in respect of a dwelling-house.

(2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such requirements relating to the service of further notices as are specified in the direction.

(3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).

(4) If, while a final demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice ("a revocation notice") on the tenant which informs him—

(a) of the landlord's decision, and

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(b) that the demolition notice is revoked as from the date of service of the revocation notice.

(5) If, while a final demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice ("a revocation notice") on the tenant which informs him—

(a) of the Secretary of State's conclusion, and

(b) that the demolition notice is revoked as from the date of service of the revocation notice.

Section 169 applies in relation to the Secretary of State's power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section.

(6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State's intention to serve the revocation notice.

(7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice.

(8) Once a final demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further final demolition notice may be served in respect of it during the period of 5 years following the time when the notice ceases to be in force, unless—

(a) it is served with the consent of the Secretary of State, and

(b) it states that it is so served.

(9) The Secretary of State's consent under sub-paragraph (8) may be given subject to compliance with such conditions as he may specify.

16 (1) Any notice under paragraph 13 or 15 may be served on a person—

(a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or

(b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body.

(2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be—

(a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and

(b) in any other case, the last known address of that person."

(2) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

183 Right to buy: claim suspended or terminated by demolition notice

(1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease), after the subsection (2D) inserted by section 193 of this Act, insert—

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"(2E) Subsection (1) also has effect subject to—

(a) section 138A(2) (operation of subsection (1) suspended while initial demolition notice is in force), and

(b) section 138B(2) (subsection (1) disapplied where final demolition notice is served)."

(2) After section 138 of that Act insert—

"**138A Effect of initial demolition notice served before completion**

(1) This section applies where—

(a) an initial demolition notice is served on a secure tenant under Schedule 5A, and

(b) the notice is served on the tenant before the landlord has made to him such a grant as is required by section 138(1) in respect of a claim by the tenant to exercise the right to buy.

(2) In such a case the landlord is not bound to comply with section 138(1), in connection with any such claim by the tenant, so long as the initial demolition notice remains in force under Schedule 5A.

(3) Section 138C provides a right to compensation in certain cases where this section applies.

138B Effect of final demolition notice served before completion

(1) This section applies where—

(a) a secure tenant has claimed to exercise the right to buy, but

(b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, a final demolition notice is served on the tenant under paragraph 13 of Schedule 5.

(2) In such a case—

(a) the tenant's claim ceases to be effective as from the time when the final demolition notice comes into force under that paragraph, and

(b) section 138(1) accordingly does not apply to the landlord, in connection with the tenant's claim, at any time after the notice comes into force.

(3) Section 138C provides a right to compensation in certain cases where this section applies.

138C Compensation where demolition notice served

(1) This section applies where—

(a) a secure tenant has claimed to exercise the right to buy,

(b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, either an initial demolition notice is served on the tenant under Schedule 5A or a final demolition notice is served on him under paragraph 13 of Schedule 5, and

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(c) the tenant's claim is established before that notice comes into force under Schedule 5A or paragraph 13 of Schedule 5 (as the case may be).

(2) If, within the period of three months beginning with the date when the notice comes into force ("the operative date"), the tenant serves on the landlord a written notice claiming an amount of compensation under subsection (3), the landlord shall pay that amount to the tenant.

(3) Compensation under this subsection is compensation in respect of expenditure reasonably incurred by the tenant before the operative date in respect of legal and other fees, and other professional costs and expenses, payable in connection with the exercise by him of the right to buy.

(4) A notice under subsection (2) must be accompanied by receipts or other documents showing that the tenant incurred the expenditure in question."

(3) After Schedule 5 to the Act insert, as Schedule 5A, the Schedule set out in Schedule 9 to this Act.

(4) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claim to exercise right to buy) was served before the day on which this section comes into force.

184 Landlord's notice to complete

(1) Section 140 of the Housing Act 1985 (c. 68) (landlord's first notice to complete) is amended as follows.

(2) In subsection (3) (notice not to be served earlier than twelve months after landlord's notice under section 125 or 146) for "twelve" substitute " three ".

(3) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming right to buy) was served before the day on which this section comes into force.

VALID FROM 18/01/2005

Right to buy: discounts

185 Repayment of discount: periods and amounts applicable

(1) Section 155 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

(2) For subsections (2) and (3) substitute—

"(2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155A on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance or grant.

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(3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155B on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the making of the initial payment."

(3) In subsection (3A) (modifications where tenant has served operative notice of delay) for "three years" substitute " five years ".

(4) After section 155 insert—

"**155A Amount of discount which may be demanded by landlord: right to buy**

(1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which under section 127 was taken as the value of the dwelling-house at the relevant time.

(3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(4) This section is subject to section 155C.

155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms

(1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of—

(a) the initial payment,

(b) any interim payment made before the disposal, or

(c) the final payment if so made,

reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal."

(5) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

(6) Subsection (7), however, applies in any such case if the first relevant disposal to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

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(7) In the following provisions—

(a) section 155(2) and (3) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.

(8) In subsections (6) and (7) "covenant for repayment of discount" means the covenant contained in a conveyance or grant in accordance with section 155 of that Act.

186 Repayment of discount: increase attributable to home improvements to be disregarded

(1) After section 155B of the Housing Act 1985 (c. 68) (inserted by section 185 of this Act) insert—

"**155C Increase attributable to home improvements**

(1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—

(a) by the person by whom the disposal is, or is to be, made, and

(b) after the conveyance or grant and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—

(a) it is reasonably practicable for him to do so; and

(b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section."

(2) In section 181 of that Act (jurisdiction of county court) for "and 158" substitute " , 155C and 158 ".

187 Deferred resale agreements

(1) After section 163 of the Housing Act 1985 insert—

"**163A Treatment of deferred resale agreements for purposes of section 155**

(1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by

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section 155 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In subsection (1) "the appropriate time" means—

(a) the time when the agreement is entered into, or

(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this subsection if it is an agreement between the secure tenant or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,

(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within subsection (3)—

(a) whether or not the date on which the disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make the disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);

(b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under subsection (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"agreement" includes arrangement;

"the discount repayment period" means the period of three or five years that applies for the purposes of section 155(2) or (3) (depending on whether the tenant's notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Commencement Information

I174 S. 187 wholly in force at 18.1.2005; s. 187 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Right to buy: landlord's right of first refusal

188 Right of first refusal for landlord etc.

(1) After section 156 of the Housing Act 1985 (c. 68) insert—

"**156A Right of first refusal for landlord etc.**

(1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant, which shall be binding on the secure tenant and his successors in title.

This is subject to subsection (8).

(2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(3) In subsection (2) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance or grant is made.

(4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

(a) a landlord who has conveyed a freehold or granted a lease to a person ("the former tenant") in pursuance of this Part, or

(b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 158.

(5) The disposals within this subsection are—

(a) a reconveyance or conveyance of the dwelling-house; and

(b) a surrender or assignment of the lease.

(6) Regulations under this section may, in particular, make provision—

(a) for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;

(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;

(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;

(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the former tenant and any other prescribed person;

(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;

(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;

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(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the former tenant is able to make a disposal on the open market;

(h) for the manner in which any offer, acceptance or notification is to be communicated.

(7) In subsection (6) any reference to the former tenant is a reference to the former tenant or his successor in title.

Nothing in that subsection affects the generality of subsection (4).

(8) In a case to which section 157(1) applies—

(a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but

(b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.

(9) Consent may be given in relation to—

(a) a particular disposal, or

(b) disposals by a particular landlord or disposals by landlords generally,

and may, in any case, be given subject to conditions.

(10) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.

(12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant."

(2) In section 157 of that Act (restriction on disposal of dwelling-houses in National Parks etc.)—

(a) in subsection (1), after "the conveyance or grant may" insert " (subject to section 156A(8) ";

(b) in subsection (2), omit ", subject to subsection (4),"; and

(c) omit subsections (4) and (5) (which provide for a landlord's right of first refusal).

(3) In section 158 of that Act (consideration for conveyance or surrender under section 157)—

(a) in the sidenote, for "reconveyance or surrender under section 157" substitute " disposal under section 156A ";

(b) for subsection (1) substitute—

"(1) The consideration for such a disposal as is mentioned in section 156A(4) shall be such amount as may be agreed between

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the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the dwelling-house at the time when the offer is made (as determined in accordance with regulations under that section).";

(c) in subsection (2), for "or surrendered" substitute " , conveyed, surrendered or assigned ";

(d) in subsection (3), for "the landlord accepts the offer," substitute " the offer is accepted in accordance with regulations under section 156A, "; and

(e) in subsection (4), for "to reconvey or surrender" substitute " (as determined in accordance with regulations under section 156A). "

(4) In section 162 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—

"(aa) the covenant required by section 156A (right of first refusal for landlord etc.) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and".

(5) The amendments made by this section do not apply in relation to a conveyance of the freehold or grant of a lease in pursuance of Part 5 of that Act if the notice under section 122 of the Act (tenant's notice claiming to exercise right to buy) was served before the day on which this section comes into force.

(6) Accordingly, nothing in this section affects—

(a) the operation of a limitation contained in such a conveyance or grant in accordance with section 157(4) of that Act, or

(b) the operation, in relation to such a limitation, of section 157(6) (so far as it renders a disposal in breach of covenant void) or section 158 (consideration payable) of that Act.

Commencement Information

I175 S. 188 wholly in force at 18.1.2005; s. 188 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

Right to buy: information

189 sInformation to help tenants decide whether to exercise right to buy etc.

(1) After section 121 of the Housing Act 1985 (c. 68) insert—

"**121AA Information to help tenants decide whether to exercise right to buy etc.**

(1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State.

(2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information

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about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms.

(3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters—
  (a) shall be such as the body concerned considers appropriate, but
  (b) shall be in a form which the body considers best suited to explaining those matters in simple terms.

(4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it—
  (a) is kept up to date so far as is reasonably practicable, and
  (b) reflects any changes in the matters for the time being specified in an order under this section.

(5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

121B Provision of information

(1) This section sets out when the document prepared by a body under section 121AA is to be published or otherwise made available.

(2) The body shall—
  (a) publish the document (whether in its original or a revised form), and
  (b) supply copies of it to the body's secure tenants,

at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.

(3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.

(4) The copies must be made available for that purpose—
  (a) at the body's principal offices, and
  (b) at such other places as it considers appropriate,

at reasonable hours.

(5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).

(6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2)(a).

(7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

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(2) In section 104(1) of that Act (provision of information about tenancies), in paragraph (b) (information about Part 4 and Part 5), omit"and Part V (the right to buy)".

Commencement Information

I176 S. 189 wholly in force at 18.1.2005; s. 189 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

PROSPECTIVE

Right to buy: termination of rent to mortgage scheme

190 Termination of rent to mortgage scheme

(1) Before section 143 of the Housing Act 1985 (c. 68) insert—

"142A **Termination of the right to acquire on rent to mortgage terms**

(1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.

(2) In this section "the termination date" means the date falling 8 months after the date of the passing of the Housing Act 2004."

(2) In section 143(1) of that Act after "sections" insert " 142A, ".

(3) In section 144(1) of that Act for "A secure tenant" substitute " Subject to section 142A, a secure tenant ".

Suspension of certain rights in connection with anti-social behaviour

VALID FROM 06/06/2005

191 Secure tenancies: withholding of consent to mutual exchange

(1) In Schedule 3 to the Housing Act 1985 (c. 68) (grounds for withholding consent to assignment by way of exchange) after Ground 2 insert—
"**Ground 2A**

Either—

(a) a relevant order or suspended Ground 2 or 14 possession order is in force, or

(b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made,

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

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A "relevant order" means—

an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);

an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);

an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);

an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or

an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A "demotion order" means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A "Ground 2 or 14 possession order" means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants."

(2) The amendment made by this section applies in relation to applications for consent under section 92 of that Act (assignments by way of exchange) which are made on or after the day on which this section comes into force.

Commencement Information

I177 S. 191 wholly in force at 14.7.2005; s. 191 not in force at Royal Assent see s. 270(4)(5); s. 191 in force for E. at 6.6.2005 by S.I. 2005/1451, **art. 2(b)**; s. 191 in force for W. at 14.7.2005 by S.I. 2005/1814, **art. 2(a)**

192 Right to buy: suspension by court order

(1) In section 121 of the Housing Act 1985 (circumstances in which right to buy cannot be exercised), after subsection (2) insert—

"(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy."

(2) After section 121 of that Act insert—

"**121A Order suspending right to buy because of anti-social behaviour**

(1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.

(2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order ("the suspension period").

(3) The court must not make a suspension order unless it is satisfied—

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(a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies (anti-social behaviour or use of premises for unlawful purposes), and

(b) that it is reasonable to make the order.

(4) When deciding whether it is reasonable to make the order, the court must consider, in particular—

(a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and

(b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.

(5) Where a suspension order is made—

(a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and

(b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but

(c) the order does not affect the computation of any period in accordance with Schedule 4.

(6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.

(7) The court must not make such a further order unless it is satisfied—

(a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies, and

(b) that it is reasonable to make the further order.

(8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—

(a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and

(b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.

(9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants."

(3) Regulations under—

(a) section 171C of that Act (modifications of Part 5 in relation to preserved right to buy), or

(b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

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may make provision for continuing the effect of a suspension order where the secure tenancy in respect of which the order was made has been replaced by an assured tenancy.

Commencement Information

I178 S. 192 wholly in force at 25.11.2005; s. 192 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 192 in force for E. at 6.6.2005 by S.I. 2005/1451, **art. 2(b)**; s. 192 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(g)**

VALID FROM 06/06/2005

193 Right to buy: suspension of landlord's obligation to complete

(1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease) after subsection (2) insert—

"(2A) Subsection (2B) applies if an application is pending before any court—

(a) for a demotion order or Ground 2 possession order to be made in respect of the tenant, or

(b) for a suspension order to be made in respect of the tenancy.

(2B) The landlord is not bound to comply with subsection (1) until such time (if any) as the application is determined without—

(a) a demotion order or an operative Ground 2 possession order being made in respect of the tenant, or

(b) a suspension order being made in respect of the tenancy,

or the application is withdrawn.

(2C) For the purposes of subsection (2A) and (2B)—

"demotion order" means a demotion order under section 82A;

"Ground 2 possession order" means an order for possession under Ground 2 in Schedule 2;

"operative Ground 2 possession order" means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order;

"suspension order" means a suspension order under section 121A.

(2D) Subsection (1) has effect subject to section 121A(5) (disapplication of subsection (1) where suspension order is made)."

(2) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

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Commencement Information

I179 S. 193 wholly in force at 25.11.2005; s. 193 not in force at Royal Assent see s. 270(4)(5); s. 193 in force for E. at 6.6.2005 by S.I. 2005/1451, **art. 2(b)**; s. 193 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(g)**

194 Disclosure of information as to orders etc. in respect of anti-social behaviour

(1) Any person may disclose relevant information to a landlord under a secure tenancy if the information is disclosed for the purpose of enabling the landlord—

(a) to decide whether either of the provisions of the Housing Act 1985 (c. 68) mentioned in subsection (2) can be invoked in relation to the tenant under the tenancy; or

(b) to take any appropriate action in relation to the tenant in reliance on either of those provisions.

(2) The provisions are—

(a) Ground 2A in Schedule 3 (withholding of consent to mutual exchange where order in force or application pending in connection with anti-social behaviour), and

(b) section 138(2B) (landlord's obligation to complete suspended while application pending in connection with such behaviour).

(3) In this section—

(a) "relevant information" means information relating to any order or application relevant for the purposes of either of the provisions mentioned in subsection (2), including (in particular) information identifying the person in respect of whom any such order or application has been made;

(b) "secure tenancy" has the meaning given by section 79 of the Housing Act 1985; and

(c) any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.

(4) Regulations under—

(a) section 171C of the Housing Act 1985 (modifications of Part 5 in relation to preserved right to buy), or

(b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

may make provision corresponding to subsections (1) to (3) of this section so far as those subsections relate to section 138(2B) of the Housing Act 1985.

Commencement Information

I180 S. 194 wholly in force at 25.11.2005; s. 194 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 194 in force for E. at 6.6.2005 by S.I. 2005/1451, **art. 2(b)**; s. 194 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(g)**

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CHAPTER 2

DISPOSALS ATTRACTING DISCOUNTS OTHER THAN UNDER RIGHT TO BUY

Disposals by local authorities

VALID FROM 18/01/2005

195 Repayment of discount: periods and amounts applicable

(1) Section 35 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

(2) In subsection (2) for the words from "to pay to the authority" to the end of the subsection substitute " to the following effect. "

(3) After subsection (2) insert—

"(3) The covenant shall be to pay to the authority such sum (if any) as the authority may demand in accordance with subsection (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment.

(4) The authority may demand such sum as they consider appropriate, up to and including the maximum amount specified in this section.

(5) The maximum amount which may be demanded by the authority is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 32.

(6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(7) Subsections (4) to (6) are subject to section 35A."

(4) The amendments made by this section do not apply in any case where—

(a) the purchaser has accepted an offer for the disposal of the house from the authority, or

(b) the authority has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

(5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(6) In the following provisions—

(a) section 35(2) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

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any reference (however expressed) to a person being liable to pay an amount to the authority on demand is to be read as a reference to his being liable to pay to the authority so much of that amount (if any) as the authority may demand.

(7) In subsections (5) and (6) "covenant for repayment of discount" means the covenant contained in a conveyance, grant or assignment in accordance with section 35 of that Act.

VALID FROM 18/01/2005

196 Repayment of discount: increase attributable to home improvements to be disregarded

After section 35 of the Housing Act 1985 insert—

"**35A Increase in value of house attributable to home improvements**

(1) In calculating the maximum amount which may be demanded by the authority under section 35, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
   (a) by the person by whom the disposal is, or is to be, made, and
   (b) after the conveyance, grant or assignment and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
   (a) it is reasonably practicable for him to do so; and
   (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section."

197 Local authority's right of first refusal

(1) After section 36 of the Housing Act 1985 (c. 68) insert—

"**36A Right of first refusal for local authority**

(1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.

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(2) On the disposal the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

(3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(4) In subsection (3) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.

(5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

(a) a local authority which have made a disposal as mentioned in subsection (1), or

(b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within subsection (6) made to them or him for such consideration as is mentioned in section 36B.

(6) The disposals within this subsection are—

(a) a reconveyance or conveyance of the house; and

(b) a surrender or assignment of the lease.

(7) Regulations under this section may, in particular, make provision—

(a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;

(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;

(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;

(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;

(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;

(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;

(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;

(h) for the manner in which any offer, acceptance or notification is to be communicated.

(8) In subsection (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Nothing in that subsection affects the generality of subsection (5).

(9) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) The limitation imposed by a covenant within subsection (3) is a local land charge.

(11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

36B Consideration payable for disposal under section 36A

(1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 36A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 35 (repayment of discount on early disposal) would be discharged by the vendor.

(3) If the offer is accepted in accordance with regulations under section 36A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 36A).”

(2) In section 33(2) of the Housing Act 1985 (c. 68) (covenants and conditions which may be imposed), after “But” insert “ , subject to sections 36A and 37, ”.

(3) In section 37(1) of that Act (restriction on disposal of dwelling-houses in National Parks etc.), after “restriction on assignment)” insert “ or a covenant as mentioned in section 36A(3) (right of first refusal for local authority) ”.

(4) In section 41 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—

“(aa) the covenant required by section 36A (right of first refusal for local authority) is not binding on the person to whom the disposal is made

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or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and".

(5) The amendments made by this section do not apply in relation to a disposal under section 32 of that Act if—

(a) the purchaser has accepted an offer for the disposal of the house from the authority, or

(b) the authority has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

Commencement Information

I181 S. 197 wholly in force at 18.1.2005; s. 197 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

198 Deferred resale agreements

(1) After section 39 of the Housing Act 1985 insert—

"**39A Treatment of deferred resale agreements for purposes of section 35**

(1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 35 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In subsection (1) "the appropriate time" means—

(a) the time when the agreement is entered into, or

(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 32,

(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within subsection (3)—

(a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under subsection (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"agreement" includes arrangement;

"the discount repayment period" means the period of 3 years that applies for the purposes of section 35(2) or the period of five years that applies for the purposes of section 35(3) (depending on whether an offer such as is mentioned in section 195(4) of the Housing Act 2004 was made before or on or after the coming into force of that section)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Commencement Information

I182 S. 198 wholly in force at 18.1.2005; s. 198 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

Disposals by registered social landlords

VALID FROM 18/01/2005

199 Repayment of discount: periods and amounts payable

(1) For section 11 of the Housing Act 1996 (c. 52) substitute—

"**11 Covenant for repayment of discount on disposal**

(1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.

(2) The covenant shall be to pay to the landlord such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment.

(3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

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(4) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house by the landlord.

(5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(6) Subsections (3) to (5) are subject to section 11A.

11A Increase in value of house attributable to home improvements to be disregarded

(1) In calculating the maximum amount which may be demanded by the landlord under section 11, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—

(a) by the person by whom the disposal is, or is to be, made, and

(b) after the conveyance, grant or assignment and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—

(a) it is reasonably practicable for him to do so; and

(b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.

11B Liability to repay is a charge on the house

(1) The liability that may arise under the covenant required by section 11 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

(2) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, etc.)—

(a) the covenant required by section 11 is not binding on the person to whom the disposal is made or any successor in title of his, and

(b) the covenant and the charge taking effect by virtue of this section cease to apply in relation to the property disposed of.”

(2) In section 12, for “section 11” in each place where it occurs substitute “ section 11B ”.

(3) The amendments made by this section do not apply in any case where—

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(a) the purchaser has accepted an offer for the disposal of the house from the landlord, or

(b) the landlord has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

(4) Subsection (5), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(5) In the following provisions—

(a) section 11(2) of the Housing Act 1996 (c. 52) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.

(6) In subsections (4) and (5) "covenant for repayment of discount" means the covenant contained in a conveyance, grant or assignment in accordance with section 11 of that Act.

200 Registered social landlord's right of first refusal

(1) After section 12 of the Housing Act 1996 insert—

"**12A Right of first refusal for registered social landlord**

(1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

(2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(3) In subsection (2) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.

(4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

(a) a registered social landlord which has made a disposal as mentioned in subsection (1), or

(b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 12B.

(5) The disposals within this subsection are—

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(a) a reconveyance or conveyance of the house; and
(b) a surrender or assignment of the lease.

(6) Regulations under this section may, in particular, make provision—
(a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
(h) for the manner in which any offer, acceptance or notification is to be communicated.

(7) In subsection (6) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that subsection affects the generality of subsection (4).

(8) Regulations under this section—
(a) may make different provision with respect to different cases or descriptions of case; and
(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) The limitation imposed by a covenant within subsection (2) is a local land charge.

(10) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

(11) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c)—
(a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
(b) the covenant ceases to apply in relation to the property disposed of.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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12B Consideration payable for disposal under section 12A

(1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 12A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 11 (repayment of discount on early disposal) would be discharged by the vendor.

(3) If the offer is accepted in accordance with regulations under section 12A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 12A).”

(2) In section 13(1) of the Housing Act 1996 (c. 52) (restriction on disposal of houses in National Parks, &c), after “restriction on assignment)” insert “ or a covenant as mentioned in section 12A(2) of this Act (right of first refusal for registered social landlord) ”.

(3) The amendments made by this section do not apply in relation to a disposal under section 8 of that Act if—

(a) the purchaser has accepted an offer for the disposal of the house from the landlord, or

(b) the landlord has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

Commencement Information

I183 S. 200 wholly in force at 18.1.2005; s. 200 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

201 Deferred resale agreements

(1) After section 15 of the Housing Act 1996 insert—

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"15A Treatment of deferred resale agreements for purposes of section 11

(1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 11 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In subsection (1) "the appropriate time" means—
- (a) the time when the agreement is entered into, or
- (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, by virtue of section 8,
- (b) which is made before the end of the discount repayment period, and
- (c) under which a relevant disposal which is not an exempted disposal is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within subsection (3)—
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
- (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—
- (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
- (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under subsection (5)—
- (a) may make different provision with respect to different cases or descriptions of case; and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"agreement" includes arrangement;

"the discount repayment period" means the period of three or five years that applies for the purposes of section 11(2) (depending on whether an offer such as is mentioned in section 199(3) of the Housing Act 2004 was made before or on or after the coming into force of that section)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

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Commencement Information

I184 S. 201 wholly in force at 18.1.2005; s. 201 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

VALID FROM 18/01/2005

202 Right of assured tenant to acquire dwelling not affected by collective enfranchisement

(1) Section 16 of the Housing Act 1996 (c. 52) (right of assured tenant of registered social landlord to acquire dwelling) is amended as follows.

(2) After subsection (3) insert—

"(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the landlord under a lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective enfranchisement)."

(3) The amendment made by subsection (2) applies in relation to the right conferred by section 16 as follows—

(a) it applies for the purposes of any exercise of that right on or after the day on which this section comes into force, and

(b) it so applies whether the lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 was granted on or after that day or before it.

Disposals by housing action trusts

VALID FROM 18/01/2005

203 Repayment of discount: periods and amounts payable

(1) Schedule 11 to the Housing Act 1988 (c. 50) (provisions applicable to certain disposals of houses) is amended as follows.

(2) In paragraph 1(2) for the words from "to pay to the housing action trust" to the end of the sub-paragraph substitute " to the following effect. "

(3) After paragraph 1(2) insert—

"(3) The covenant shall be to pay to the housing action trust such sum (if any) as the trust may demand in accordance with sub-paragraph (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment.

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(4) The trust may demand such sum as it considers appropriate, up to and including the maximum amount specified in this paragraph.

(5) The maximum amount which may be demanded by the trust is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 79.

(6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the trust is reduced by one-fifth.

(7) Sub-paragraphs (4) to (6) are subject to paragraph 1A.

1A **Increase in value of house attributable to home improvements**

(1) In calculating the maximum amount which may be demanded by the housing action trust under paragraph 1, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—

(a) by the person by whom the disposal is, or is to be, made, and

(b) after the conveyance, grant or assignment and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this paragraph shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this paragraph to make a determination for the purposes of this paragraph unless—

(a) it is reasonably practicable for him to do so; and

(b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this paragraph (and in default of an agreement), no amount is required to be disregarded under this paragraph."

(4) The amendments made by this section do not apply in any case where—

(a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or

(b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

(5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(6) In the following provisions—

(a) paragraph 1(2) of Schedule 11 to the Housing Act 1988 (c. 50) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

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any reference (however expressed) to a person being liable to pay an amount to the housing action trust on demand is to be read as a reference to his being liable to pay to the trust so much of that amount (if any) as the trust may demand.

(7) In subsections (5) and (6) "covenant for repayment of discount" means the covenant contained in a conveyance, grant or assignment in accordance with paragraph 1 of Schedule 11 to that Act.

204 Housing action trust's right of first refusal

(1) After paragraph 2 of Schedule 11 to the Housing Act 1988 insert—

"**Right of first refusal for housing action trust**

2A (1) This paragraph applies where, on the disposal of a house under section 79 of this Act, a discount is given to the purchaser by the housing action trust in accordance with a consent given by the Secretary of State under subsection (1) of that section and that consent does not exclude the application of this paragraph.

(2) On the disposal, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

(3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(4) In sub-paragraph (3) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.

(5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

(a) a housing action trust which has made a disposal as mentioned in sub-paragraph (1), or

(b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within sub-paragraph (6) made to him for such consideration as is mentioned in paragraph 2B.

(6) The disposals within this sub-paragraph are—

(a) a reconveyance or conveyance of the house; and

(b) a surrender or assignment of the lease.

(7) Regulations under this paragraph may, in particular, make provision—

(a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;

(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;

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(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;

(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;

(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;

(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;

(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;

(h) for the manner in which any offer, acceptance or notification is to be communicated.

(8) In sub-paragraph (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that sub-paragraph affects the generality of sub-paragraph (5).

(9) Regulations under this paragraph—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) The limitation imposed by a covenant within sub-paragraph (3) is a local land charge.

(11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

Consideration payable for disposal under paragraph 2A

2B (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in paragraph 2A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that paragraph).

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by paragraph 1 (repayment of discount on early disposal) would be discharged by the vendor.

(3) If the offer is accepted in accordance with regulations under paragraph 2A, no payment shall be required in pursuance of any such covenant as is

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mentioned in sub-paragraph (2), but the consideration shall be reduced, subject to sub-paragraph (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in sub-paragraph (2), the consideration shall not be reduced under sub-paragraph (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under paragraph 2A)."

(2) In paragraph 6 of Schedule 11 to that Act (exempted disposals ending obligation under covenants), at the end of paragraph (b) insert "and

(c) the covenant required by paragraph 2A above is not binding on the person to whom the disposal is made or any successor in title of his; and

(d) that covenant ceases to apply in relation to the property disposed of."

(3) The amendments made by this section do not apply in relation to a disposal under section 79 of that Act if—

(a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or

(b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

Commencement Information

I185 S. 204 wholly in force at 18.1.2005; s. 204 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

205 Deferred resale agreements

(1) After paragraph 7 of Schedule 11 to the Housing Act 1988 (c. 50) insert—

"**Treatment of deferred resale agreements**

8 (1) If a purchaser or his successor in title enters into an agreement within sub-paragraph (3), any liability arising under the covenant required by paragraph 1 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In sub-paragraph (1) "the appropriate time" means—

(a) the time when the agreement is entered into, or

(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this sub-paragraph if it is an agreement between the purchaser or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 79,

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(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within sub-paragraph (3)—

(a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for sub-paragraph (1) to apply to agreements of any description specified in the order in addition to those within sub-paragraph (3);

(b) for sub-paragraph (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under sub-paragraph (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this paragraph—

"agreement" includes arrangement;

"the discount repayment period" means the period of 3 years that applies for the purposes of paragraph 1(2) or the period of five years that applies for the purposes of paragraph 1(3) (depending on whether an offer such as is mentioned in section 203(4) of the Housing Act 2004 was made before or on or after the coming into force of that section)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Commencement Information

I186 S. 205 wholly in force at 18.1.2005; s. 205 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

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CHAPTER 3

MOBILE HOMES

Site agreements

206 Particulars of site agreements to be given in advance

(1) For section 1 of the Mobile Homes Act 1983 (c. 34) (particulars of agreements between site owners and occupiers of mobile homes) substitute—

"**1 Particulars of agreements**

(1) This Act applies to any agreement under which a person ("the occupier") is entitled—
  (a) to station a mobile home on land forming part of a protected site; and
  (b) to occupy the mobile home as his only or main residence.

(2) Before making an agreement to which this Act applies, the owner of the protected site ("the owner") shall give to the proposed occupier under the agreement a written statement which—
  (a) specifies the names and addresses of the parties;
  (b) includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;
  (c) sets out the express terms to be contained in the agreement;
  (d) sets out the terms to be implied by section 2(1) below; and
  (e) complies with such other requirements as may be prescribed by regulations made by the appropriate national authority.

(3) The written statement required by subsection (2) above must be given—
  (a) not later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
  (b) (if no such agreement is made before the making of the agreement to which this Act applies) not later than 28 days before the date on which the agreement to which this Act applies is made.

(4) But if the proposed occupier consents in writing to that statement being given to him by a date ("the chosen date") which is less than 28 days before the date mentioned in subsection (3)(a) or (b) above, the statement must be given to him not later than the chosen date.

(5) If any express term—
  (a) is contained in an agreement to which this Act applies, but
  (b) was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (4) above,

  the term is unenforceable by the owner or any person within section 3(1) below.

  This is subject to any order made by the court under section 2(3) below.

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(6) If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, the occupier may, at any time after the making of the agreement, apply to the court for an order requiring the owner—

(a) to give him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), and

(b) to do so not later than such date as is specified in the order.

(7) A statement required to be given to a person under this section may be either delivered to him personally or sent to him by post.

(8) Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.

(9) Regulations under this section—

(a) shall be made by statutory instrument;

(b) if made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(c) may make different provision with respect to different cases or descriptions of case, including different provision for different areas."

(2) Section 2 of that Act (terms of agreements) is amended as follows—

(a) in subsection (2), for "within six months of the giving of the statement under section 1(2) above" substitute " within the relevant period "; and

(b) for subsection (3) substitute—

"(3) The court may, on the application of either party made within the relevant period, make an order—

(a) varying or deleting any express term of the agreement;

(b) in the case of any express term to which section 1(6) above applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.

(3A) In subsections (2) and (3) above "the relevant period" means the period beginning with the date on which the agreement is made and ending—

(a) six months after that date, or

(b) where a written statement relating to the agreement is given to the occupier after that date (whether or not in compliance with an order under section 1(6) above), six months after the date on which the statement is given;

and section 1(8) above applies for the purposes of this subsection as it applies for the purposes of section 1."

(3) In section 5(1) of that Act (interpretation) insert at the appropriate place—

""the appropriate national authority" means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the National Assembly for Wales;".

(4) The amendments made by subsections (1) and (2) do not apply in relation to an agreement to which that Act applies where—

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(a) the agreement, or

(b) (if it becomes one to which that Act applies as the result of any variation of it) the variation in question,

is made before the end of the period of 28 days beginning with the day on which those subsections come into force.

(5) The new section 1(9)(b) inserted by subsection (1) does not affect the continuing validity of any regulations made under section 1 of that Act before the passing of this Act.

Commencement Information

I187 S. 206 wholly in force at 18.1.2005; s. 206 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

VALID FROM 18/01/2005

207 Implied terms relating to termination of agreements or disposal of mobile homes

(1) Part 1 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) (terms implied in site agreements) is amended as follows.

(2) In paragraph 6 (termination by owner on ground of detrimental effect resulting from age and condition of mobile home)—

(a) omit "age and"; and

(b) after sub-paragraph (2) insert—

"(3) Sub-paragraphs (4) and (5) below apply if, on an application under sub-paragraph (1) above—

(a) the court considers that, having regard to the present condition of the mobile home, paragraph (a) or (b) of that sub-paragraph applies to it, but

(b) it also considers that it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in neither of those paragraphs applying to it, and

(c) the occupier indicates that he intends to carry out those repairs.

(4) In such a case the court may make an order adjourning proceedings on the application for such period specified in the order as the court considers reasonable to allow the repairs to be carried out.

The repairs must be set out in the order.

(5) If the court makes such an order, the application shall not be further proceeded with unless the court is satisfied that the specified period has expired without the repairs having been carried out."

(3) In paragraph 8 (sale of mobile home to person approved by owner)—

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(a) after sub-paragraph (1) insert—

"(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.

(1B) Where the owner receives such a request, he must, within the period of 28 days beginning with the date on which he received the request—

(a) approve the person, unless it is reasonable for him not to do so, and

(b) serve on the occupier notice of his decision whether or not to approve the person.

(1C) A notice under sub-paragraph (1B) above must specify—

(a) if the approval is given subject to conditions, the conditions, and

(b) if the approval is withheld, the reasons for withholding it.

(1D) The giving of approval subject to any condition that is not a reasonable condition does not satisfy the requirement in sub-paragraph (1B)(a) above.

(1E) If the owner fails to notify the occupier as required by sub-paragraphs (1B) and (1C) above, the occupier may apply to the court for an order declaring that the person is approved for the purposes of sub-paragraph (1) above; and the court may make such an order if it thinks fit.

(1F) It is for the owner—

(a) if he served a notice as mentioned in sub-paragraphs (1B) and (1C) and the question arises whether he served the notice within the required period of 28 days, to show that he did;

(b) if he gave his approval subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was;

(c) if he did not give his approval and the question arises whether it was reasonable for him not to do so, to show that it was reasonable.

(1G) A request or notice under this paragraph—

(a) must be in writing, and

(b) may be served by post.";

(b) in sub-paragraph (2) for "the Secretary of State" substitute " the appropriate national authority "; and

(c) in sub-paragraph (3)(a) after "which" insert " (if made by the Secretary of State) ".

(4) After the existing provisions of paragraph 9 (gift of mobile home to person approved by owner), which become sub-paragraph (1), insert—

"(2) Sub-paragraphs (1A) to (1G) of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as

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they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph."

(5) After Part 2 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) insert—

"**PART 3**

SUPPLEMENTARY PROVISIONS

Duty to forward requests under paragraph 8 or 9 of Part 1

1 (1) This paragraph applies to—

(a) a request by the occupier for the owner to approve a person for the purposes of paragraph 8(1) of Part 1 (see paragraph 8(1A)), or

(b) a request by the occupier for the owner to approve a person for the purposes of paragraph 9(1) of Part 1 (see paragraph 8(1A) as applied by paragraph 9(2)).

(2) If a person ("the recipient") receives such a request and he—

(a) though not the owner, has an estate or interest in the protected site, and

(b) believes that another person is the owner (and that the other person has not received such a request),

the recipient owes a duty to the occupier to take such steps as are reasonable to secure that the other person receives the request within the period of 28 days beginning with the date on which the recipient receives it.

(3) In paragraph 8(1B) of Part 1 of this Schedule (as it applies to any request within sub-paragraph (1) above) any reference to the owner receiving such a request includes a reference to his receiving it in accordance with sub-paragraph (2) above.

Action for breach of duty under paragraph 1

2 (1) A claim that a person has broken the duty under paragraph 1(2) above may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.

(2) The right conferred by sub-paragraph (1) is in addition to any right to bring proceedings, in respect of a breach of any implied term having effect by virtue of paragraph 8 or 9 of Part 1 of this Schedule, against a person bound by that term."

(6) The amendments made by this section apply in relation to an agreement to which the Mobile Homes Act 1983 applies that was made before the day on which this section comes into force ("the appointed day"), as well as in relation to one made on or after that day.

Any reference in this subsection to the making of an agreement to which that Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which that Act applies.

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(7) However—

(a) the amendments made by subsection (2) do not apply in relation to any application made before the appointed day for the purposes of paragraph 6 of Part 1 of Schedule 1 to that Act; and

(b) the amendments made by subsections (3)(a), (4) and (5) do not apply in relation to any request for approval made before the appointed day for the purposes of paragraph 8(1) or (as the case may be) 9(1) of that Part of that Schedule.

208 Power to amend terms implied in site agreements

(1) After section 2 of the Mobile Homes Act 1983 (c. 34) insert—

"**2A Power to amend implied terms**

(1) The appropriate national authority may by order make such amendments of Part 1 or 2 of Schedule 1 to this Act as the authority considers appropriate.

(2) An order under this section—

(a) shall be made by statutory instrument;

(b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas;

(c) may contain such incidental, supplementary, consequential, transitional or saving provisions as the authority making the order considers appropriate.

(3) Without prejudice to the generality of subsections (1) and (2), an order under this section may—

(a) make provision for or in connection with the determination by the court of such questions, or the making by the court of such orders, as are specified in the order;

(b) make such amendments of any provision of this Act as the authority making the order considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of Schedule 1.

(4) The first order made under this section in relation to England or Wales respectively may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day).

(5) No order may be made by the appropriate national authority under this section unless the authority has consulted—

(a) such organisations as appear to it to be representative of interests substantially affected by the order; and

(b) such other persons as it considers appropriate.

(6) No order may be made by the Secretary of State under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament."

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(2) For the purposes of subsection (5) of the section 2A inserted by this section, consultation undertaken before the date of the passing of this Act constitutes as effective compliance with that subsection as if undertaken on or after that date.

VALID FROM 18/01/2005

Protection from eviction etc.

209 Protected sites to include sites for gypsies

(1) Section 1 of the Caravan Sites Act 1968 (c. 52) (application of provisions for protection of residential occupiers of caravan sites) is amended as follows.

(2) In subsection (2) (under which "protected site" includes certain local authority sites) for "paragraph 11 of Schedule 1 to that Act (exemption of land occupied by local authorities) substitute "paragraph 11 or 11A of Schedule 1 to that Act (exemption of gypsy and other local authority sites)".

(3) The amendment made by subsection (2) above does not affect the operation of—
- (a) section 2 of the Act (minimum length of notice) in relation to any notice given before the day on which this section comes into force, or
- (b) section 3 of the Act (protection from eviction) in relation to any conduct occurring before that day, or
- (c) section 4 of the Act (suspension of eviction orders) in relation to any proceedings begun before that day.

(4) In subsection (3)(b) the reference to section 3 of the Act is to that section whether as amended by section 210 of this Act or otherwise.

210 Extension of protection from harassment for occupiers of mobile homes

(1) Section 3 of the Caravan Sites Act 1968 (protection of occupiers against eviction and harassment) is amended as follows.

(2) In subsection (1) (offence where person, with the specified intent, does acts calculated to interfere with the peace or comfort of the occupier etc.) for "calculated to interfere" substitute " likely to interfere ".

(3) After subsection (1) insert—

"(1A) Subject to the provisions of this section, the owner of a protected site or his agent shall be guilty of an offence under this section if, whether during the subsistence or after the expiration or determination of a residential contract—
- (a) he does acts likely to interfere with the peace or comfort of the occupier or persons residing with him, or
- (b) he persistently withdraws or withholds services or facilities reasonably required for the occupation of the caravan as a residence on the site,

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and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to do any of the things mentioned in subsection (1)(c)(i) or (ii) of this section.

(1B) References in subsection (1A) of this section to the owner of a protected site include references to a person with an estate or interest in the site which is superior to that of the owner."

(4) In subsection (3) (penalties for offences), for the words from "be liable" onwards substitute "be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both."

(5) After subsection (4) insert—

"(4A) In proceedings for an offence under subsection (1A) of this section it shall be a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question."

(6) The amendments made by this section do not apply in relation to any conduct occurring before the day on which this section comes into force.

(7) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the amendment made by subsection (4) has effect as if for "12 months" there were substituted " 6 months ".

211 Suspension of eviction orders

(1) In section 4(6) of the Caravan Sites Act 1968 (c. 52) (provision for suspension of eviction orders) for the words from "in the following cases" to the end of paragraph (b) substitute "if—

(a) no site licence under Part 1 of that Act is in force in respect of the site, and

(b) paragraph 11 or 11A of Schedule 1 to the Caravan Sites and Control of Development Act 1960 (c. 2) does not apply;".

(2) The amendment made by subsection (1) does not apply in relation to proceedings begun before the day on which this section comes into force.

CHAPTER 4

TENANCY DEPOSIT SCHEMES

212 Tenancy deposit schemes

(1) The appropriate national authority must make arrangements for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies.

(2) For the purposes of this Chapter a "tenancy deposit scheme" is a scheme which—

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(a) is made for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies and facilitating the resolution of disputes arising in connection with such deposits, and

(b) complies with the requirements of Schedule 10.

(3) Arrangements under subsection (1) must be arrangements made with any body or person under which the body or person ("the scheme administrator") undertakes to establish and maintain a tenancy deposit scheme of a description specified in the arrangements.

(4) The appropriate national authority may—

(a) give financial assistance to the scheme administrator;

(b) make payments to the scheme administrator (otherwise than as financial assistance) in pursuance of arrangements under subsection (1).

(5) The appropriate national authority may, in such manner and on such terms as it thinks fit, guarantee the discharge of any financial obligation incurred by the scheme administrator in connection with arrangements under subsection (1).

(6) Arrangements under subsection (1) must require the scheme administrator to give the appropriate national authority, in such manner and at such times as it may specify, such information and facilities for obtaining information as it may specify.

(7) The appropriate national authority may make regulations conferring or imposing—

(a) on scheme administrators, or

(b) on scheme administrators of any description specified in the regulations,

such powers or duties in connection with arrangements under subsection (1) as are so specified.

(8) In this Chapter—

"authorised", in relation to a tenancy deposit scheme, means that the scheme is in force in accordance with arrangements under subsection (1);

"custodial scheme" and "insurance scheme" have the meaning given by paragraph 1(2) and (3) of Schedule 10);

"money" means money in the form of cash or otherwise;

"shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988 (c. 50);

"tenancy deposit", in relation to a shorthold tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of his,

arising under or in connection with the tenancy.

(9) In this Chapter—

(a) references to a landlord or landlords in relation to any shorthold tenancy or tenancies include references to a person or persons acting on his or their behalf in relation to the tenancy or tenancies, and

(b) references to a tenancy deposit being held in accordance with a scheme include, in the case of a custodial scheme, references to an amount representing the deposit being held in accordance with the scheme.

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Commencement Information

I188 S. 212 wholly in force at 6.4.2007; s. 212 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 212 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; s. 212 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

213 Requirements relating to tenancy deposits

(1) Any tenancy deposit paid to a person in connection with a shorthold tenancy must, as from the time when it is received, be dealt with in accordance with an authorised scheme.

(2) No person may require the payment of a tenancy deposit in connection with a shorthold tenancy which is not to be subject to the requirement in subsection (1).

(3) Where a landlord receives a tenancy deposit in connection with a shorthold tenancy, the initial requirements of an authorised scheme must be complied with by the landlord in relation to the deposit within the period of 14 days beginning with the date on which it is received.

(4) For the purposes of this section "the initial requirements" of an authorised scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.

(5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—

(a) the authorised scheme applying to the deposit,

(b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and

(c) the operation of provisions of this Chapter in relation to the deposit,

as may be prescribed.

(6) The information required by subsection (5) must be given to the tenant and any relevant person—

(a) in the prescribed form or in a form substantially to the same effect, and

(b) within the period of 14 days beginning with the date on which the deposit is received by the landlord.

(7) No person may, in connection with a shorthold tenancy, require a deposit which consists of property other than money.

(8) In subsection (7) "deposit" means a transfer of property intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of his,

arising under or in connection with the tenancy.

(9) The provisions of this section apply despite any agreement to the contrary.

(10) In this section—

"prescribed" means prescribed by an order made by the appropriate national authority;

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

"property" means moveable property;

"relevant person" means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.

Commencement Information

I189 S. 213 wholly in force at 6.4.2007; s. 213 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 213 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; s. 213 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

VALID FROM 06/04/2007

214 Proceedings relating to tenancy deposits

(1) Where a tenancy deposit has been paid in connection with a shorthold tenancy, the tenant or any relevant person (as defined by section 213(10)) may make an application to a county court on the grounds—

(a) that the initial requirements of an authorised scheme (see section 213(4)) have not, or section 213(6)(a) has not, been complied with in relation to the deposit; or

(b) that he has been notified by the landlord that a particular authorised scheme applies to the deposit but has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.

(2) Subsections (3) and (4) apply if on such an application the court—

(a) is satisfied that those requirements have not, or section 213(6)(a) has not, been complied with in relation to the deposit, or

(b) is not satisfied that the deposit is being held in accordance with an authorised scheme,

as the case may be.

(3) The court must, as it thinks fit, either—

(a) order the person who appears to the court to be holding the deposit to repay it to the applicant, or

(b) order that person to pay the deposit into the designated account held by the scheme administrator under an authorised custodial scheme,

within the period of 14 days beginning with the date of the making of the order.

(4) The court must also order the landlord to pay to the applicant a sum of money equal to three times the amount of the deposit within the period of 14 days beginning with the date of the making of the order.

(5) Where any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), the property in question is recoverable from the person holding it by the person by whom it was given as a deposit.

(6) In subsection (5) "deposit" has the meaning given by section 213(8).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I190 S. 214 wholly in force at 6.4.2007; s. 214 not in force at Royal Assent see s. 270(4)(5); s. 214 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; s. 214 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

VALID FROM 06/04/2007

215 Sanctions for non-compliance

(1) If a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when—

(a) the deposit is not being held in accordance with an authorised scheme, or

(b) the initial requirements of such a scheme (see section 213(4)) have not been complied with in relation to the deposit.

(2) If section 213(6) is not complied with in relation to a deposit given in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy until such time as section 213(6)(a) is complied with.

(3) If any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), no section 21 notice may be given in relation to the tenancy until such time as the property in question is returned to the person by whom it was given as a deposit.

(4) In subsection (3) "deposit" has the meaning given by section 213(8).

(5) In this section a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy).

Commencement Information

I191 S. 215 wholly in force at 6.4.2007; s. 215 not in force at Royal Assent see s. 270(4)(5); s. 215 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; s. 215 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

CHAPTER 5

MISCELLANEOUS

Overcrowding

216 Overcrowding

(1) The appropriate national authority may by order make such provision as it considers appropriate for and in connection with—

(a) determining whether a dwelling is overcrowded for the purposes of Part 10 of the Housing Act 1985 (c. 68) (overcrowding);

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(b) introducing for the purposes of Chapter 3 of Part 4 of this Act a concept of overcrowding similar to that applying for the purposes of Part 10 (and accordingly removing the discretion of local housing authorities to decide particular issues arising under those sections);

(c) securing that overcrowding in premises to which Chapter 3 of Part 4 of this Act would otherwise apply, or any description of such premises, is regulated only by provisions of Part 10.

(2) An order under this section may, in particular, make provision for regulating the making by local housing authorities of determinations as to whether premises are overcrowded, including provision prescribing—

(a) factors that must be taken into account by such authorities when making such determinations;

(b) the procedure that is to be followed by them in connection with making such determinations.

(3) An order under this section may modify any enactment (including this Act).

(4) In this section—

(a) any reference to Part 10 of the Housing Act 1985 includes a reference to Part 10 as modified by an order under this section; and

(b) "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

VALID FROM 18/01/2005

Energy efficiency

217 Energy efficiency of residential accommodation: England

(1) The Secretary of State must take reasonable steps to ensure that by 2010 the general level of energy efficiency of residential accommodation in England has increased by at least 20 per cent compared with the general level of such energy efficiency in 2000.

(2) Nothing in this section affects the duties of the Secretary of State under section 2 of the Sustainable Energy Act 2003 (c. 30) (energy efficiency aim in respect of residential accommodation in England).

(3) In this section "residential accommodation" has the meaning given by section 1 of the Home Energy Conservation Act 1995 (c. 10).

VALID FROM 18/01/2005

Registered social landlords

218 Amendments relating to registered social landlords

Schedule 11 (which makes amendments relating to registered social landlords) has effect.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

219 Disclosure of information to registered social landlords for the purposes of section 1 of the Crime and Disorder Act 1998

In section 115(2) of the Crime and Disorder Act 1998 (c. 37) after paragraph (d) insert—

"(da) a person registered under section 1 of the Housing Act 1996 as a social landlord;".

Other provisions relating to social housing

220 Additional power to give grants for social housing

After section 27 of the Housing Act 1996 (c. 52) insert—

"Grants to bodies other than registered social landlords

27A Grants to bodies other than registered social landlords

(1) The Relevant Authority may make grants under this section to persons other than registered social landlords.

(2) Grants under this section are grants for any of the following purposes—

(a) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of—

(i) under equity percentage arrangements, or

(ii) on shared ownership terms;

(b) constructing houses to be disposed of—

(i) under equity percentage arrangements, or

(ii) on shared ownership terms;

(c) providing loans to be secured by mortgages to assist persons to acquire houses for their own occupation;

(d) providing, constructing or improving houses to be kept available for letting;

(e) providing, constructing or improving houses for letting that are to be managed by such registered social landlords, and under arrangements containing such terms, as are approved by the Relevant Authority;

(f) such other purposes as may be specified in an order under subsection (3).

(3) The Secretary of State may by order make such provision in connection with the making of grants under this section as he considers appropriate.

(4) An order under subsection (3) may, in particular, make provision—

(a) defining "equity percentage arrangements" for the purposes of this section;

(b) specifying or describing the bodies from whom loans may be obtained by persons wishing to acquire houses for their own occupation;

(c) dealing with the priority of mortgages entered into by such persons;

(d) specifying purposes additional to those mentioned in subsection (2)(a) to (e).

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(5) As regards grants made by the Housing Corporation, an order under subsection (3) may also require the imposition of conditions in connection with such grants, and for this purpose may—

(a) prescribe conditions that are to be so imposed;

(b) prescribe matters about which conditions are to be so imposed and any particular effects that such conditions are to achieve.

(6) The Relevant Authority shall specify in relation to grants under this section—

(a) the procedure to be followed in relation to applications for grant,

(b) the circumstances in which grant is or is not to be payable,

(c) the method for calculating, and any limitations on, the amount of grant, and

(d) the manner in which, and the time or times at which, grant is to be paid.

(7) If, by virtue of subsection (5), an order under subsection (3) requires conditions to be imposed by the Housing Corporation in connection with a grant to a person under this section, the Corporation in making the grant—

(a) must provide that the grant is conditional on compliance by the person with such conditions as are required by the order; and

(b) if it exercises its power to impose conditions under subsection (8), must not impose any that are inconsistent with the requirements of the order.

(8) In making a grant to a person under this section the Relevant Authority may provide that the grant is conditional on compliance by the person with such conditions as the Authority may specify.

(9) The conditions that may be so specified include conditions requiring the payment to the Relevant Authority in specified circumstances of a sum determined by the Authority (with or without interest).

(10) An order under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) In this section—

"disposed of on shared ownership terms" has the meaning given by section 2(6);

"letting" includes the grant of a licence to occupy.

27B Transfer of property funded by grants under section 27A

(1) Where—

(a) any grant is paid or payable to any person under section 27A, and

(b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another person who is not a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 27A.

(2) Where—

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(a) any amount is paid or payable to any person by way of grant under section 27A, and

(b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 18.

(3) In such a case, the relevant section 18 conditions accordingly apply to that grant or proportion of it, in relation to times falling after that time, in place of those specified under section 27A(8).

"The relevant section 18 conditions" means such conditions specified under section 18(3) as would have applied at the time of the making of the grant if it had been made under section 18 to a registered social landlord.

(4) The proportion mentioned in subsection (1) or (2) is that which, in the circumstances of the particular case—

(a) the Relevant Authority, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or

(b) the Relevant Authority may determine to be appropriate."

Commencement Information

I192 S. 220 partly in force; s. 220 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 220 in force for E. in so far as not already in force at 17.2.2005 by S.I. 2005/326, **art. 2(a)**

VALID FROM 17/02/2005

221 Extension of right to acquire

After section 16 of the Housing Act 1996 (c. 52) insert—

"**16A Extension of section 16 to dwellings funded by grants under section 27A**

(1) Section 16 applies in relation to a dwelling ("a funded dwelling") provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.

(2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.

(3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.

(4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if,

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

since it was acquired or provided as mentioned in subsection (1) above, it was used—

(a) by the recipient of the grant mentioned in that subsection, or

(b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid,

exclusively for the purposes for which the grant was made or any other purposes agreed to by the Relevant Authority.

(5) In subsection (4) "relevant time" means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3)."

Commencement Information

I193 S. 221 partly in force; s. 221 not in force at Royal Assent see s. 270(4)(5); s. 221 in force for E. at 17.2.2005 by S.I. 2005/326, **art. 2(a)**

VALID FROM 18/01/2005

222 Rights of pre-emption in connection with assured tenancies

(1) Section 5 of the Housing Act 1988 (c. 50) (security of tenure for assured tenants) is amended as follows.

(2) After subsection (5) (certain obligations etc. of tenant to be unenforceable) insert—

"(5A) Nothing in subsection (5) affects any right of pre-emption—

(a) which is exercisable by the landlord under a tenancy in circumstances where the tenant indicates his intention to dispose of the whole of his interest under the tenancy, and

(b) in pursuance of which the landlord would be required to pay, in respect of the acquisition of that interest, an amount representing its market value.

"Dispose" means dispose by assignment or surrender, and "acquisition" has a corresponding meaning."

(3) The amendment made by subsection (2) does not apply in relation to any right of pre-emption granted before the day on which this section comes into force.

VALID FROM 27/04/2005

223 Allocation of housing accommodation by local authorities

In section 167(2)(d) of the Housing Act 1996 (c. 52) (people to whom preference is to be given in allocating housing accommodation) after "medical or welfare grounds" insert " (including grounds relating to a disability) ".

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I194 S. 223 partly in force; s. 223 not in force at Royal Assent see s. 270(4)(5); s. 223 in force for E. at 27.4.2005 by S.I. 2005/1120, **art. 2**

VALID FROM 18/01/2005

Disabled facilities grant

224 Disabled facilities grant: caravans

(1) The Housing Grants, Construction and Regeneration Act 1996 (c. 53) is amended as follows.

(2) In section 1(1)(c)(i) (grants in relation to qualifying park homes) for "qualifying park homes" substitute " caravans ".

(3) In section 19(1) (applications for grants) for paragraph (c) substitute—

"(c) that the applicant is an occupier (alone or jointly with others) of a qualifying houseboat or a caravan and, in the case of a caravan, that at the time the application was made the caravan was stationed on land within the authority's area."

(4) In section 22A (certificates required in case of occupier's application)—

(a) for "qualifying park home" in subsection (2)(b) and (3)(a) and (b) substitute " caravan ", and

(b) for "pitch" in subsection (3)(a) substitute " land ".

(5) In the following provisions for "qualifying park home" substitute " caravan "

(a) section 23(1)(a)(i), (b)(i), (i) and (k) (purposes of grant);

(b) section 24(3)(b)(i) (approval of application);

(c) section 29(3) (restriction on grants for works already begun);

(d) section 41(1)(b) (change of circumstances).

(6) In section 57(2)(a) (power of authority to carry out works)—

(a) for "qualifying park home", in each place where it occurs, substitute " caravan ", and

(b) for "pitch" in sub-paragraph (i) substitute " land ".

(7) In section 58 (minor definitions for the purposes of Chapter 1 of Part 1)—

(a) before the definition of "common parts" insert—

""caravan"—

(a) means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968); and

(b) includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;" and

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Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(b) for "qualifying park home" in the definition of "premises" substitute " caravan ", and

(c) omit the definition of "qualifying park home".

(8) In section 59 (index of defined expressions)—

(a) before the entry relating to "certified date" insert—

"caravan	section 58"; and

(b) omit the entry relating to "qualifying park home".

(9) The amendments made by this section do not apply in relation to any application for a disabled facilities grant under the Housing Grants, Construction and Regeneration Act 1996 (c. 53) that is made before the day on which this section comes into force.

VALID FROM 02/01/2007

Accommodation needs of gypsies and travellers

225 Duties of local housing authorities: accommodation needs of gypsies and travellers

(1) Every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985 (c. 68), carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.

(2) Subsection (3) applies where a local housing authority are required under section 87 of the Local Government Act 2003 (c. 26) to prepare a strategy in respect of the meeting of such accommodation needs.

(3) The local authority who are that local housing authority must take the strategy into account in exercising their functions.

"Functions" includes functions exercisable otherwise than as a local housing authority.

(4) A local housing authority must have regard to any guidance issued under section 226 in—

(a) carrying out such an assessment as mentioned in subsection (1), and

(b) preparing any strategy that they are required to prepare as mentioned in subsection (2).

(5) In this section—

(a) "gypsies and travellers" has the meaning given by regulations made by the appropriate national authority;

(b) "accommodation needs" includes needs with respect to the provision of sites on which caravans can be stationed; and

(c) "caravan" has the same meaning as in Part 1 of the Caravan Sites and Control of Development Act 1960.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

Commencement Information

I195 S. 225 wholly in force at 13.12.2007; s. 225 not in force at Royal Assent see s. 270(4)(5); s. 225 in force for E. at 2.1.2007 by S.I. 2006/3191, **art. 2(a)**; s. 225 in force for W. at 13.12.2007 by S.I. 2007/3232, **art. 2(a)**

226 Guidance in relation to section 225

(1) The appropriate national authority may issue guidance to local housing authorities regarding—

(a) the carrying out of assessments under section 225(1), and

(b) the preparation of any strategies that local housing authorities are required to prepare as mentioned in section 225(2).

(2) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.

(3) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).

(4) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (3), either House resolves that the guidance or alterations be withdrawn.

(5) Subsection (4) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.

(6) In calculating the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

Commencement Information

I196 S. 226 wholly in force at 13.12.2007; s. 226 not in force at Royal Assent see s. 270(4)(5); s. 226 in force for E. at 2.1.2007 by S.I. 2006/3191, **art. 2(b)**; s. 226 in force for W. at 13.12.2007 by S.I. 2007/3232, **art. 2(b)**

VALID FROM 17/02/2005

Annual reports by local housing authorities

227 Removal of duty on local housing authorities to send annual reports to tenants etc.

Omit section 167 of the Local Government and Housing Act 1989 (c. 42) (duty of local housing authorities to send annual reports to tenants).

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I197 S. 227 wholly in force at 14.7.2005; s. 227 not in force at Royal Assent see s. 270(4)(5); s. 227 in force for E. at 17.2.2005 by S.I. 2005/326, **art. 2(a)**; s. 227 in force for W. at 14.7.2005 by S.I. 2005/1814, **art. 2(b)**

Social Housing Ombudsman for Wales

228 Social Housing Ombudsman for Wales

(1) After subsection (6) of section 51 of the Housing Act 1996 (c. 52) (schemes for investigation of housing complaints) insert—

"(7) This section shall not apply in relation to social landlords in Wales (within the meaning given by section 51C)."

(2) After that section insert—

"**51A Social Housing Ombudsman for Wales**

(1) For the purpose of the investigation of complaints made about social landlords in Wales, there shall be an office of Social Housing Ombudsman for Wales or Ombwdsmon Tai Cymdeithasol Cymru.

(2) The person who is the Local Commissioner for Wales shall also be the Social Housing Ombudsman for Wales.

(3) If there is more than one person who is a Local Commissioner for Wales, the Commission for Local Administration in Wales shall designate one of them to be the Social Housing Ombudsman for Wales.

(4) If a person who is the Social Housing Ombudsman for Wales ceases to be a Local Commissioner for Wales, he shall cease to be the Social Housing Ombudsman for Wales.

(5) The power under section 23(6) of the Local Government Act 1974 to remove a Local Commissioner for Wales from office on grounds of incapacity or misbehaviour includes a power to remove him from that office on grounds of incapacity or misbehaviour which are exclusively or partly relevant to the office of Social Housing Ombudsman for Wales.

(6) "Local Commissioner for Wales" shall be construed in accordance with section 23 of the Local Government Act 1974.

(7) Schedule 2A (which contains further provision about the Social Housing Ombudsman for Wales) shall have effect.

51B Investigation of complaints

(1) The National Assembly for Wales may by regulations make provision about the investigation by the Social Housing Ombudsman for Wales of complaints made about social landlords in Wales.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(2) Regulations under subsection (1) may in particular make provision about—

(a) the matters about which complaints may be made;

(b) the grounds on which a matter may be excluded from investigation, including that the matter is the subject of court proceedings or was the subject of court proceedings where judgment on the merits was given;

(c) the description of individual who may make a complaint;

(d) a power of the Social Housing Ombudsman for Wales to investigate any complaint duly made (whether the complaint is subsequently withdrawn or not), and, where he investigates, the making of a determination;

(e) a power of the Social Housing Ombudsman for Wales to propose alternative methods of resolving a dispute;

(f) the powers of the Social Housing Ombudsman for Wales for the purposes of his investigations (including powers to consult and co-operate with other persons), and the procedure to be followed in the conduct of investigations;

(g) the powers of the Social Housing Ombudsman for Wales on making a determination, which may include power—

(i) to make recommendations as to action to be taken to remedy any injustice to the person aggrieved and to prevent any similar injustice being caused in the future,

(ii) to make orders with regard to the payment of compensation or to order that a person is not to exercise, or require the performance of, certain rights or obligations, and

(iii) to publish statements, or to make orders requiring the publication of statements, that a person has failed to comply with an order mentioned in sub-paragraph (ii);

(h) the manner in which determinations are to be—

(i) communicated to the complainant and the person against whom the complaint was made; and

(ii) published (with or without excisions).

(3) Regulations under this section may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.

(4) Regulations under this section may make different provision for different cases or descriptions of case.

(5) Regulations under this section shall be made by statutory instrument.

51C Meaning of "social landlord in Wales"

(1) "Social landlord in Wales" means—

(a) a body which is registered as a social landlord in the register maintained by the National Assembly for Wales under section 1 of this Act;

(b) a body which was at any time registered as a social landlord in that register (or in the register previously maintained under that section by the Secretary of State or Housing for Wales); and

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(c) any other body which was at any time registered with Housing for Wales, the Secretary of State or the National Assembly for Wales and which owns or manages publicly-funded dwellings.

(2) In subsection (1)(c) a "publicly-funded" dwelling means a dwelling which was—

(a) provided by means of a grant under—

(i) section 18 of this Act (social housing grant); or

(ii) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985, or section 29 or 29A of the Housing Act 1974 (housing association grant); or

(b) acquired on a disposal by a public sector landlord.

(3) The National Assembly for Wales may by order made by statutory instrument add to or amend the descriptions of landlords who are to be treated as social landlords in Wales.

(4) Before making any such order the National Assembly for Wales shall consult such persons as it considers appropriate.

(5) Any such order may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate."

(3) After Schedule 2 to that Act there is inserted, as Schedule 2A, the Schedule set out in Schedule 12 to this Act.

(4) In Schedule 4 to the Local Government Act 1974 (c. 7), in paragraph 1(3) (validity of acts despite disqualification for being appointed as, or for being, a Local Commissioner) after "office" there is inserted " or in the office of Social Housing Ombudsman for Wales ".

Commencement Information

I198 S. 228 wholly in force at 14.7.2005; s. 228 in force for certain purposes at Royal Assent see s. 270(2)(b)(7); s. 228 in force otherwise at 14.7.2005 by S.I. 2005/1814, **art. 2(c)**

PART 7

SUPPLEMENTARY AND FINAL PROVISIONS

Residential property tribunals

229 Residential property tribunals

(1) Any jurisdiction conferred on a residential property tribunal by or under any enactment is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c. 42).

(2) When so constituted for exercising any such jurisdiction a rent assessment committee is known as a residential property tribunal.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(3) The appropriate national authority may by order make provision for and in connection with conferring on residential property tribunals, in relation to such matters as are specified in the order, such jurisdiction as is so specified.

(4) An order under subsection (3) may modify an enactment (including this Act).

(5) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Commencement Information

I199 S. 229 wholly in force at 16.6.2006; s. 229 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 229 in force for E. at 4.7.2005 by S.I. 2005/1729, **art. 2(b)** (subject to art. 3); s. 229 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 04/07/2005

230 Powers and procedure of residential property tribunals

(1) A residential property tribunal exercising any jurisdiction by virtue of any enactment has, in addition to any specific powers exercisable by it in exercising that jurisdiction, the general power mentioned in subsection (2).

(2) The tribunal's general power is a power by order to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue raised in or in connection with them.

(3) In deciding whether to give directions under its general power a tribunal must have regard to—
- (a) the matters falling to be determined in the proceedings,
- (b) any other circumstances appearing to the tribunal to be relevant, and
- (c) the provisions of the enactment by virtue of which it is exercising jurisdiction and of any other enactment appearing to it to be relevant.

(4) A tribunal may give directions under its general power whether or not they were originally sought by a party to the proceedings.

(5) When exercising jurisdiction under this Act, the directions which may be given by a tribunal under its general power include (where appropriate)—
- (a) directions requiring a licence to be granted under Part 2 or 3 of this Act;
- (b) directions requiring any licence so granted to contain such terms as are specified in the directions;
- (c) directions requiring any order made under Part 4 of this Act to contain such terms as are so specified;
- (d) directions that any building or part of a building so specified is to be treated as if an HMO declaration had been served in respect of it on such date as is so specified (without there being any right to appeal against it under section 255(9));
- (e) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(6) Nothing in any enactment conferring specific powers on a residential property tribunal is to be regarded as affecting the operation of the preceding provisions of this section.

(7) Schedule 13 (residential property tribunals: procedure) has effect.

(8) Section 229(5) applies also for the purposes of this section and Schedule 13.

Commencement Information

I200 S. 230 wholly in force at 16.6.2006; s. 230 not in force at Royal Assent see s. 270(4)(5); s. 230 in force for E. at 4.7.2005 by S.I. 2005/1729, **art. 2(a)** (subject to art. 3); s. 230 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 04/07/2005

231 Appeals from residential property tribunals

(1) A party to proceedings before a residential property tribunal may appeal to the Lands Tribunal from a decision of the residential property tribunal.

(2) But the appeal may only be made—
- (a) with the permission of the residential property tribunal or the Lands Tribunal, and
- (b) within the time specified by rules under section 3(6) of the Lands Tribunal Act 1949 (c. 42).

(3) On the appeal—
- (a) the Lands Tribunal may exercise any power which was available to the residential property tribunal, and
- (b) a decision of the Lands Tribunal may be enforced in the same way as a decision of the residential property tribunal.

(4) Section 11(1) of the Tribunals and Inquiries Act 1992 (c. 53) (appeals from certain tribunals to High Court) does not apply to any decision of a residential property tribunal.

(5) For the purposes of section 3(4) of the Lands Tribunal Act 1949 (which enables a person aggrieved by a decision of the Lands Tribunal to appeal to the Court of Appeal) a residential property tribunal is not to be regarded as an aggrieved person.

Modifications etc. (not altering text)

C28 S. 231 excluded by Housing Act 1985 (c. 68), Sch. 5 para. 11(5B) (as inserted (4.7.2005 (E.) and prosp. (W.)) by Housing Act 2004 (c. 34), **ss. 181(3)**, 270(4)(5)(c)); S.I. 2005/1729, **art. 2(a)** (subject to art. 3)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I201 S. 231 wholly in force at 16.6.2006; s. 231 not in force at Royal Assent see s. 270(4)(5); s. 231 in force for E. at 4.7.2005 by S.I. 2005/1729, **art. 2(a)** (subject to art. 3); s. 231 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Register of licences and management orders

232 Register of licences and management orders

(1) Every local housing authority must establish and maintain a register of—

(a) all licences granted by them under Part 2 or 3 which are in force;

(b) all temporary exemption notices served by them under section 62 or section 86 which are in force; and

(c) all management orders made by them under Chapter 1 or 2 of Part 4 which are in force.

(2) The register may, subject to any requirements that may be prescribed, be in such form as the authority consider appropriate.

(3) Each entry in the register is to contain such particulars as may be prescribed.

(4) The authority must ensure that the contents of the register are available at the authority's head office for inspection by members of the public at all reasonable times.

(5) If requested by a person to do so and subject to payment of such reasonable fee (if any) as the authority may determine, a local housing authority must supply the person with a copy (certified to be true) of the register or of an extract from it.

(6) A copy so certified is prima facie evidence of the matters mentioned in it.

(7) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

Commencement Information

I202 S. 232 wholly in force at 16.6.2006; s. 232 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 232 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 232 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Codes of practice and management regulations relating to HMOs etc.

233 Approval of codes of practice with regard to the management of HMOs etc.

(1) The appropriate national authority may by order—

(a) approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of houses in multiple occupation or of excepted accommodation;

(b) approve a modification of such a code; or

(c) withdraw the authority's approval of such a code or modification.

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(2) Before approving a code of practice or a modification of a code of practice under this section the appropriate national authority must take reasonable steps to consult—
  (a) persons involved in the management of houses in multiple occupation or (as the case may be) excepted accommodation of the kind in question and persons occupying such houses or accommodation, or
  (b) persons whom the authority considers to represent the interests of those persons.

(3) The appropriate national authority may only approve a code of practice or a modification of a code if satisfied that—
  (a) the code or modification has been published (whether by the authority or by another person) in a manner that the authority considers appropriate for the purpose of bringing the code or modification to the attention of those likely to be affected by it; or
  (b) arrangements have been made for the code or modification to be so published.

(4) The appropriate national authority may approve a code of practice which makes different provision in relation to different cases or descriptions of case (including different provision for different areas).

(5) A failure to comply with a code of practice for the time being approved under this section does not of itself make a person liable to any civil or criminal proceedings.

(6) In this section "excepted accommodation" means such description of living accommodation falling within any provision of Schedule 14 (buildings which are not HMOs for purposes of provisions other than Part 1) as is specified in an order under subsection (1).

234 Management regulations in respect of HMOs

(1) The appropriate national authority may by regulations make provision for the purpose of ensuring that, in respect of every house in multiple occupation of a description specified in the regulations—
  (a) there are in place satisfactory management arrangements; and
  (b) satisfactory standards of management are observed.

(2) The regulations may, in particular—
  (a) impose duties on the person managing a house in respect of the repair, maintenance, cleanliness and good order of the house and facilities and equipment in it;
  (b) impose duties on persons occupying a house for the purpose of ensuring that the person managing the house can effectively carry out any duty imposed on him by the regulations.

(3) A person commits an offence if he fails to comply with a regulation under this section.

(4) In proceedings against a person for an offence under subsection (3) it is a defence that he had a reasonable excuse for not complying with the regulation.

(5) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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VALID FROM 15/06/2005

Information provisions

VALID FROM 06/04/2006

235 Power to require documents to be produced

(1) A person authorised in writing by a local housing authority may exercise the power conferred by subsection (2) in relation to documents reasonably required by the authority—

(a) for any purpose connected with the exercise of any of the authority's functions under any of Parts 1 to 4 in relation to any premises, or

(b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.

(2) A person so authorised may give a notice to a relevant person requiring him—

(a) to produce any documents which—

(i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and

(ii) are in his custody or under his control, and

(b) to produce them at a time and place so specified and to a person so specified.

(3) The notice must include information about the possible consequences of not complying with the notice.

(4) The person to whom any document is produced in accordance with the notice may copy the document.

(5) No person may be required under this section to produce any document which he would be entitled to refuse to provide in proceedings in the High Court on grounds of legal professional privilege.

(6) In this section "document" includes information recorded otherwise than in legible form, and in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.

(7) In this section "relevant person" means, in relation to any premises, a person within any of the following paragraphs—

(a) a person who is, or is proposed to be, the holder of a licence under Part 2 or 3 in respect of the premises, or a person on whom any obligation or restriction under such a licence is, or is proposed to be, imposed,

(b) a person who has an estate or interest in the premises,

(c) a person who is, or is proposing to be, managing or having control of the premises,

(d) a person who is, or is proposing to be, otherwise involved in the management of the premises,

(e) a person who occupies the premises.

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Commencement Information

I203 S. 235 wholly in force at 16.6.2006; s. 235 not in force at Royal Assent see s. 270(4)(5); s. 235 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 235 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

236 Enforcement of powers to obtain information

(1) A person commits an offence if he fails to do anything required of him by a notice under section 235.

(2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person commits an offence if he intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 235.

(5) A person who commits an offence under subsection (4) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(6) In this section "document" includes information recorded otherwise than in legible form, and in relation to information so recorded—
- (a) the reference to the production of a document is a reference to the production of a copy of the information in legible form, and
- (b) the reference to suppressing a document includes a reference to destroying the means of reproducing the information.

Commencement Information

I204 S. 236 wholly in force at 16.6.2006; s. 236 not in force at Royal Assent see s. 270(4)(5); s. 236 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 236 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

237 Use of information obtained for certain other statutory purposes

(1) A local housing authority may use any information to which this section applies—
- (a) for any purpose connected with the exercise of any of the authority's functions under any of Parts 1 to 4 in relation to any premises, or
- (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.

(2) This section applies to any information which has been obtained by the authority in the exercise of functions under—

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(a) section 134 of the Social Security Administration Act 1992 (c. 5) (housing benefit), or

(b) Part 1 of the Local Government Finance Act 1992 (c. 14) (council tax).

Commencement Information

I205 S. 237 wholly in force at 25.11.2005; s. 237 not force at Royal Assent see s. 270(4)(5); s. 237 in force for E. at 15.6.2005 by S.I. 2005/1451, **art. 3(e)**; s. 237 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(h)**

VALID FROM 06/04/2006

238 False or misleading information

(1) A person commits an offence if—

(a) he supplies any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part,

(b) the information is false or misleading, and

(c) he knows that it is false or misleading or is reckless as to whether it is false or misleading.

(2) A person commits an offence if—

(a) he supplies any information to another person which is false or misleading,

(b) he knows that it is false or misleading or is reckless as to whether it is false or misleading, and

(c) he knows that the information is to be used for the purpose of supplying information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In this section "false or misleading" means false or misleading in any material respect.

Commencement Information

I206 S. 238 wholly in force at 16.6.2006; s. 238 not in force at Royal Assent see s. 270(4)(5); s. 238 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 238 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 06/04/2006

Enforcement

239 Powers of entry

(1) Subsection (3) applies where the local housing authority consider that a survey or examination of any premises is necessary and any of the following conditions is met —

(a) the authority consider that the survey or examination is necessary in order to carry out an inspection under section 4(1) or otherwise to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;

(b) the premises are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order;

(c) a management order is in force under Chapter 1 or 2 of Part 4 in respect of the premises.

(2) Subsection (3) also applies where the proper officer of the local housing authority considers that a survey or examination of any premises is necessary in order to carry out an inspection under section 4(2).

(3) Where this subsection applies—

(a) a person authorised by the local housing authority (in a case within subsection (1)), or

(b) the proper officer (in a case within subsection (2)),

may enter the premises in question at any reasonable time for the purpose of carrying out a survey or examination of the premises.

(4) If—

(a) an interim or final management order is in force under Chapter 1 of Part 4 in respect of any premises consisting of part of a house ("the relevant premises"), and

(b) another part of the house is excluded from the order by virtue of section 102(8) or 113(7),

the power of entry conferred by subsection (3) is exercisable in relation to any premises comprised in that other part so far as is necessary for the purpose of carrying out a survey or examination of the relevant premises.

(5) Before entering any premises in exercise of the power conferred by subsection (3), the authorised person or proper officer must have given at least 24 hours' notice of his intention to do so—

(a) to the owner of the premises (if known), and

(b) to the occupier (if any).

(6) Subsection (7) applies where the local housing authority consider that any premises need to be entered for the purpose of ascertaining whether an offence has been committed under section 72, 95 or 234(3).

(7) A person authorised by the local housing authority may enter the premises for that purpose—

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(a) at any reasonable time, but

(b) without giving any prior notice as mentioned in subsection (5).

(8) A person exercising the power of entry conferred by subsection (3) or (7) may do such of the following as he thinks necessary for the purpose for which the power is being exercised—

(a) take other persons with him;

(b) take equipment or materials with him;

(c) take measurements or photographs or make recordings;

(d) leave recording equipment on the premises for later collection;

(e) take samples of any articles or substances found on the premises.

(9) An authorisation for the purposes of this section—

(a) must be in writing; and

(b) must state the particular purpose or purposes for which the entry is authorised.

(10) A person authorised for the purposes of this section must, if required to do so, produce his authorisation for inspection by the owner or any occupier of the premises or anyone acting on his behalf.

(11) If the premises are unoccupied or the occupier is temporarily absent, a person exercising the power of entry conferred by subsection (3) or (7) must leave the premises as effectively secured against trespassers as he found them.

(12) In this section "occupier", in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

Commencement Information

I207 S. 239 wholly in force at 16.6.2006; s. 239 not in force at Royal Assent see s. 270(4)(5); s. 239 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 239 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

240 Warrant to authorise entry

(1) This section applies where a justice of the peace is satisfied, on a sworn information in writing, that admission to premises specified in the information is reasonably required for any of the purposes mentioned in subsection (2) by a person—

(a) employed by, or

(b) acting on the instructions of,

the local housing authority.

(2) The purposes are—

(a) surveying or examining premises in order to carry out an inspection under section 4(1) or (2) or otherwise to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;

(b) surveying or examining premises—

(i) which are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order, or

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(ii) in respect of which a management order is in force under Chapter 1 or 2 of Part 4;

(c) ascertaining whether an offence has been committed under section 72, 95 or 234(3).

(3) The justice may by warrant under his hand authorise the person mentioned in subsection (1) to enter on the premises for such of those purposes as may be specified in the warrant.

(4) But the justice must not grant the warrant unless he is satisfied—

(a) that admission to the premises has been sought in accordance with section 239(5) or (7) but has been refused;

(b) that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the purpose of the entry to await his return; or

(c) that application for admission would defeat the purpose of the entry.

(5) The power of entry conferred by a warrant under this section includes power to enter by force (if necessary).

(6) Subsection (8) of section 239 applies to the person on whom that power is conferred as it applies to a person exercising the power of entry conferred by subsection (3) or (7) of that section.

(7) A warrant under this section must, if so required, be produced for inspection by the owner or any occupier of the premises or anyone acting on his behalf.

(8) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of a warrant under this section must leave the premises as effectively secured against trespassers as he found them.

(9) A warrant under this section continues in force until the purpose for which the entry is required is satisfied.

(10) In a case within section 239(4)(a) and (b), the powers conferred by this section are exercisable in relation to premises comprised in the excluded part of the house as well as in relation to the relevant premises.

(11) In this section "occupier", in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

Commencement Information

I208 S. 240 wholly in force at 16.6.2006; s. 240 not in force at Royal Assent see s. 270(4)(5); s. 240 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 240 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

241 Penalty for obstruction

(1) A person who obstructs a relevant person in the performance of anything which, by virtue of any of Parts 1 to 4 or this Part, that person is required or authorised to do commits an offence.

(2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for obstructing the relevant person.

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(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) In this section "relevant person" means an officer of a local housing authority or any person authorised to enter premises by virtue of any of Parts 1 to 4 or section 239 or 240.

Commencement Information

I209 S. 241 wholly in force at 16.6.2006; s. 241 not in force at Royal Assent see s. 270(4)(5); s. 241 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 241 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

242 Additional notice requirements for protection of owners

(1) This section applies where an owner of premises gives a notice to the local housing authority for the purposes of this section informing them of his interest in the premises.

(2) The authority must give him notice of any action taken by them under any of Parts 1 to 4 or this Part in relation to the premises.

Commencement Information

I210 S. 242 wholly in force at 16.6.2006; s. 242 not in force at Royal Assent see s. 270(4)(5); s. 242 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 242 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

VALID FROM 06/04/2006

Authorisations

243 Authorisations for enforcement purposes etc.

(1) This section applies to any authorisation given for the purposes of any of the following provisions—

(a) section 131 (management orders: power of entry to carry out work),

(b) section 235 (power to require documents to be produced),

(c) section 239 (powers of entry),

(d) paragraph 3(4) of Schedule 3 (improvement notices: power to enter to carry out work), and

(e) paragraph 25 of Schedule 7 (EDMOs: power of entry to carry out work).

(2) Any such authorisation must be given by the appropriate officer of the local housing authority.

(3) For the purposes of this section a person is an "appropriate officer" of a local housing authority, in relation to an authorisation given by the authority, if either—

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(a) he is a deputy chief officer of the authority (within the meaning of section 2 of the Local Government and Housing Act 1989 (c. 42)), and

(b) the duties of his post consist of or include duties relating to the exercise of the functions of the authority in connection with which the authorisation is given,

or he is an officer of the authority to whom such a deputy chief officer reports directly, or is directly accountable, as respects duties so relating.

Commencement Information

I211 S. 243 wholly in force at 16.6.2006; s. 243 not in force at Royal Assent see s. 270(2)(3); s. 243 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 243 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Documents

244 Power to prescribe forms

(1) The appropriate national authority may by regulations prescribe the form of any notice, statement or other document which is required or authorised to be used under, or for the purposes of, this Act.

(2) The power conferred by this section is not exercisable where specific provision for prescribing the form of a document is made elsewhere in this Act.

VALID FROM 18/01/2005

245 Power to dispense with notices

(1) The appropriate national authority may dispense with the service of a notice which is required to be served by a local housing authority under this Act if satisfied that it is reasonable to do so.

(2) A dispensation may be given either before or after the time at which the notice is required to be served.

(3) A dispensation may be given either unconditionally or on such conditions (whether as to the service of other notices or otherwise) as the appropriate national authority considers appropriate.

(4) Before giving a dispensation under this section, the appropriate national authority shall, in particular, have regard to the need to ensure, so far as possible, that the interests of any person are not prejudiced by the dispensation.

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VALID FROM 18/01/2005

246 Service of documents

(1) Subsection (2) applies where the local housing authority is, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve a document on a person who, to the knowledge of the authority, is—

(a) a person having control of premises,

(b) a person managing premises, or

(c) a person having an estate or interest in premises,

or a person who (but for an interim or final management order under Chapter 1 of Part 4) would fall within paragraph (a) or (b).

(2) The local housing authority must take reasonable steps to identify the person or persons falling within the description in that provision.

(3) A person having an estate or interest in premises may for the purposes of any provision to which subsections (1) and (2) apply give notice to the local housing authority of his interest in the premises.

(4) The local housing authority must enter a notice under subsection (3) in its records.

(5) A document required or authorised by any of Parts 1 to 4 or this Part to be served on a person as—

(a) a person having control of premises,

(b) a person managing premises,

(c) a person having an estate or interest in premises, or

(d) a person who (but for an interim or final management order under Chapter 1 of Part 4) would fall within paragraph (a) or (b),

may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served in accordance with subsection (6).

(6) A person having such a connection with any premises as is mentioned in subsection (5)(a) to (d) is served in accordance with this subsection if—

(a) the document is addressed to him by describing his connection with the premises (naming them), and

(b) delivering the document to some person on the premises or, if there is no person on the premises to whom it can be delivered, by fixing it, or a copy of it, to some conspicuous part of the premises.

(7) Subsection (1)(c) or (5)(c) applies whether the provision requiring or authorising service of the document refers in terms to a person having an estate or interest in premises or instead refers to a class of person having such an estate or interest (such as owners, lessees or mortgagees).

(8) Where under any provision of Parts 1 to 4 or this Part a document is to be served on—

(a) the person having control of premises,

(b) the person managing premises, or

(c) the owner of premises,

and more than one person comes within the description in the provision, the document may be served on more than one of those persons.

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(9) Section 233 of the Local Government Act 1972 (c. 70) (service of notices by local authorities) applies in relation to the service of documents for any purposes of this Act by the authorities mentioned in section 261(2)(d) and (e) of this Act as if they were local authorities within the meaning of section 233.

(10) In this section—

(a) references to a person managing premises include references to a person authorised to permit persons to occupy premises; and

(b) references to serving include references to similar expressions (such as giving or sending).

(11) In this section—

"document" includes anything in writing;

"premises" means premises however defined.

Modifications etc. (not altering text)

C29 S. 246 applied by Housing Act 1985 (c. 68), s. 268 (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 265(1), 270(4)(5)(f), **Sch. 15 para. 13**); S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

VALID FROM 18/01/2005

247 Licences and other documents in electronic form

(1) A local housing authority may, subject to subsection (3), issue a licence to a person under Part 2 or 3 by transmitting the text of the licence to him by electronic means, provided the text—

(a) is received by him in legible form, and

(b) is capable of being used for subsequent reference.

(2) A local housing authority may, subject to subsection (3), serve a relevant document on a person by transmitting the text of the document to him in the way mentioned in subsection (1).

(3) The recipient, or the person on whose behalf the recipient receives the document, must have indicated to the local housing authority the recipient's willingness to receive documents transmitted in the form and manner used.

(4) An indication for the purposes of subsection (3)—

(a) must be given to the local housing authority in such manner as they may require;

(b) may be a general indication or one that is limited to documents of a particular description;

(c) must state the address to be used and must be accompanied by such other information as the local housing authority require for the making of the transmission; and

(d) may be modified or withdrawn at any time by a notice given to the local housing authority in such manner as they may require.

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(5) In this section any reference to serving includes a reference to similar expressions (such as giving or sending).

(6) In this section—

"document" includes anything in writing; and

"relevant document" means any document which a local housing authority are, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve on any person.

248 Timing and location of things done electronically

(1) The Secretary of State may by regulations make provision specifying, for the purposes of any of Parts 1 to 4 or this Part, the manner of determining—

(a) the times at which things done under any of Parts 1 to 4 or this Part by means of electronic communications networks are done;

(b) the places at which things done under any of Parts 1 to 4 or this Part by means of such networks are done; and

(c) the places at which things transmitted by means of such networks are received.

(2) The Secretary of State may by regulations make provision about the manner of proving in any legal proceedings—

(a) that something done by means of an electronic communications network satisfies any requirements of any of Parts 1 to 4 or this Part for the doing of that thing; and

(b) the matters mentioned in subsection (1)(a) to (c).

(3) Regulations under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.

(4) In this section "electronic communications network" has the meaning given by section 32 of the Communications Act 2003 (c. 21).

VALID FROM 18/01/2005

249 Proof of designations

(1) This subsection applies in respect of a copy of—

(a) a designation under section 56 (designation of an area as subject to additional licensing), or

(b) a designation under section 80 (designation of an area as subject to selective licensing),

which purports to be made by a local housing authority.

(2) A certificate endorsed on such a copy and purporting to be signed by the proper officer of the authority stating the matters set out in subsection (3) is prima facie evidence of the facts so stated without proof of the handwriting or official position of the person by whom it purports to be signed.

(3) Those matters are—

(a) that the designation was made by the authority,

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(b) that the copy is a true copy of the designation, and
(c) that the designation did not require confirmation by the confirming authority, or that on a specified date the designation was confirmed by the confirming authority.

Other supplementary provisions

250 Orders and regulations

(1) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act—
(a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas; and
(b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State or (as the case may be) the National Assembly for Wales considers appropriate.

(3) The Secretary of State must consult the National Assembly for Wales before making any regulations under Part 5 which relate to residential properties in Wales.

(4) Subject to subsections (5) and (6), any order or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Subsection (4) does not apply to any order under section 270 or paragraph 3 of Schedule 10.

(6) Subsection (4) also does not apply to—
(a) any order under section 55(3) which makes the provision authorised by section 55(4),
(b) any order under section 80(5) or (7),
(c) any order under section 216 or 229(3),
(d) any order under section 265(2) which modifies any provision of an Act,
(e) any regulations under section 254(6),
(f) any regulations under paragraph 3 of Schedule 4 or orders under paragraph 11 of Schedule 10, or
(g) any regulations made by virtue of paragraph 11(3)(b) or 12(3)(b) of Schedule 13;

and no such order or regulations may be made by the Secretary of State (whether alone or with other provisions) unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.

(7) In this Act "modify", in the context of a power to modify an enactment by order or regulations, includes repeal (and "modifications" has a corresponding meaning).

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VALID FROM 18/01/2005

251 Offences by bodies corporate

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in such a capacity,

he as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

252 Power to up-rate level of fines for certain offences

(1) Subsection (2) applies if the Secretary of State considers that there has been a change in the value of money since the relevant date.

(2) The Secretary of State may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (3) such other sum or sums as he considers to be justified by the change.

(3) The provisions are—

(a) section 32(2)(b);

(b) section 35(6);

(c) section 72(6); and

(d) section 95(5).

(4) In subsection (1) "the relevant date" means—

(a) the date of the passing of this Act; or

(b) where the sums specified in a provision mentioned in subsection (3) have been substituted by an order under subsection (2), the date of that order.

(5) Nothing in an order under subsection (2) affects the punishment for an offence committed before the order comes into force.

VALID FROM 18/01/2005

253 Local inquiries

The appropriate national authority may, for the purposes of the execution of any of the authority's functions under this Act, cause such local inquiries to be held as the authority considers appropriate.

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Meaning of "house in multiple occupation"

254 Meaning of "house in multiple occupation"

(1) For the purposes of this Act a building or a part of a building is a "house in multiple occupation" if—

(a) it meets the conditions in subsection (2) ("the standard test");

(b) it meets the conditions in subsection (3) ("the self-contained flat test");

(c) it meets the conditions in subsection (4) ("the converted building test");

(d) an HMO declaration is in force in respect of it under section 255; or

(e) it is a converted block of flats to which section 257 applies.

(2) A building or a part of a building meets the standard test if—

(a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;

(b) the living accommodation is occupied by persons who do not form a single household (see section 258);

(c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

(d) their occupation of the living accommodation constitutes the only use of that accommodation;

(e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and

(f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

(3) A part of a building meets the self-contained flat test if—

(a) it consists of a self-contained flat; and

(b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).

(4) A building or a part of a building meets the converted building test if—

(a) it is a converted building;

(b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);

(c) the living accommodation is occupied by persons who do not form a single household (see section 258);

(d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

(e) their occupation of the living accommodation constitutes the only use of that accommodation; and

(f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.

(5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.

(6) The appropriate national authority may by regulations—

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(a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;

(b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;

(c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.

(7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.

(8) In this section—

"basic amenities" means—

(a) a toilet,

(b) personal washing facilities, or

(c) cooking facilities;

"converted building" means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30);

"self-contained flat" means a separate set of premises (whether or not on the same floor)—

(a) which forms part of a building;

(b) either the whole or a material part of which lies above or below some other part of the building; and

(c) in which all three basic amenities are available for the exclusive use of its occupants.

Commencement Information

I212 S. 254 wholly in force at 18.1.2005; s. 254 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

VALID FROM 18/01/2005

255 HMO declarations

(1) If a local housing authority are satisfied that subsection (2) applies to a building or part of a building in their area, they may serve a notice under this section (an "HMO declaration") declaring the building or part to be a house in multiple occupation.

(2) This subsection applies to a building or part of a building if the building or part meets any of the following tests (as it applies without the sole use condition)—

(a) the standard test (see section 254(2)),

(b) the self-contained flat test (see section 254(3)), or

(c) the converted building test (see section 254(4)),

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and the occupation, by persons who do not form a single household, of the living accommodation or flat referred to in the test in question constitutes a significant use of that accommodation or flat.

(3) In subsection (2) "the sole use condition" means the condition contained in—
- (a) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
- (b) section 254(4)(e),

as the case may be.

(4) The notice must—
- (a) state the date of the authority's decision to serve the notice,
- (b) be served on each relevant person within the period of seven days beginning with the date of that decision,
- (c) state the day on which it will come into force if no appeal is made under subsection (9) against the authority's decision, and
- (d) set out the right to appeal against the decision under subsection (9) and the period within which an appeal may be made.

(5) The day stated in the notice under subsection (4)(c) must be not less than 28 days after the date of the authority's decision to serve the notice.

(6) If no appeal is made under subsection (9) before the end of that period of 28 days, the notice comes into force on the day stated in the notice.

(7) If such an appeal is made before the end of that period of 28 days, the notice does not come into force unless and until a decision is given on the appeal which confirms the notice and either—
- (a) the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, or
- (b) if an appeal to the Lands Tribunal is brought, a decision is given on the appeal which confirms the notice.

(8) For the purposes of subsection (7), the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against.

(9) Any relevant person may appeal to a residential property tribunal against a decision of the local housing authority to serve an HMO declaration.

The appeal must be made within the period of 28 days beginning with the date of the authority's decision.

(10) Such an appeal—
- (a) is to be by way of a re-hearing, but
- (b) may be determined having regard to matters of which the authority were unaware.

(11) The tribunal may—
- (a) confirm or reverse the decision of the authority, and
- (b) if it reverses the decision, revoke the HMO declaration.

(12) In this section and section 256 "relevant person", in relation to an HMO declaration, means any person who, to the knowledge of the local housing authority, is—

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(a) a person having an estate or interest in the building or part of the building concerned (but is not a tenant under a lease with an unexpired term of 3 years of less), or

(b) a person managing or having control of that building or part (and not falling within paragraph (a)).

VALID FROM 18/01/2005

256 Revocation of HMO declarations

(1) A local housing authority may revoke an HMO declaration served under section 255 at any time if they consider that subsection (2) of that section no longer applies to the building or part of the building in respect of which the declaration was served.

(2) The power to revoke an HMO declaration is exercisable by the authority either—

(a) on an application made by a relevant person, or

(b) on the authority's own initiative.

(3) If, on an application by such a person, the authority decide not to revoke the HMO declaration, they must without delay serve on him a notice informing him of—

(a) the decision,

(b) the reasons for it and the date on which it was made,

(c) the right to appeal against it under subsection (4), and

(d) the period within which an appeal may be made under that subsection.

(4) A person who applies to a local housing authority for the revocation of an HMO declaration under subsection (1) may appeal to a residential property tribunal against a decision of the authority to refuse to revoke the notice.

The appeal must be made within the period of 28 days beginning with the date specified under subsection (3) as the date on which the decision was made.

(5) Such an appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(6) The tribunal may—

(a) confirm or reverse the decision of the authority, and

(b) if it reverses the decision, revoke the HMO declaration.

VALID FROM 18/01/2005

257 HMOs: certain converted blocks of flats

(1) For the purposes of this section a "converted block of flats" means a building or part of a building which—

(a) has been converted into, and

(b) consists of,

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self-contained flats.

(2) This section applies to a converted block of flats if—

(a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and

(b) less than two-thirds of the self-contained flats are owner-occupied.

(3) In subsection (2) "appropriate building standards" means—

(a) in the case of a converted block of flats—

(i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations 1991 (S.I. 1991/2768), and

(ii) which would not have been exempt under those Regulations,

building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and

(b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).

(4) For the purposes of subsection (2) a flat is "owner-occupied" if it is occupied—

(a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,

(b) by a person who has the freehold estate in the converted block of flats, or

(c) by a member of the household of a person within paragraph (a) or (b).

(5) The fact that this section applies to a converted block of flats (with the result that it is a house in multiple occupation under section 254(1)(e)), does not affect the status of any flat in the block as a house in multiple occupation.

(6) In this section "self-contained flat" has the same meaning as in section 254.

258 HMOs: persons not forming a single household

(1) This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.

(2) Persons are to be regarded as not forming a single household unless—

(a) they are all members of the same family, or

(b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

(3) For the purposes of subsection (2)(a) a person is a member of the same family as another person if—

(a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);

(b) one of them is a relative of the other; or

(c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.

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(4) For those purposes—

(a) a "couple" means two persons who are married to each other or otherwise fall within subsection (3)(a);

(b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;

(c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and

(d) the stepchild of a person shall be treated as his child.

(5) Regulations under subsection (2)(b) may, in particular, secure that a group of persons are to be regarded as forming a single household only where (as the regulations may require) each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.

(6) In subsection (5) "prescribed relationship" means any relationship of a description specified in the regulations.

Commencement Information

I213 S. 258 wholly in force at 18.1.2005; s. 258 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

259 HMOs: persons treated as occupying premises as only or main residence

(1) This section sets out when persons are to be treated for the purposes of section 254 as occupying a building or part of a building as their only or main residence.

(2) A person is to be treated as so occupying a building or part of a building if it is occupied by the person—

(a) as the person's residence for the purpose of undertaking a full-time course of further or higher education;

(b) as a refuge, or

(c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

(3) In subsection (2)(b) "refuge" means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of—

(a) physical violence or mental abuse, or

(b) threats of such violence or abuse,

from persons to whom they are or were married or with whom they are or were co-habiting.

Commencement Information

I214 S. 259 wholly in force at 18.1.2005; s. 259 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

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VALID FROM 18/01/2005

260 HMOs: presumption that sole use condition or significant use condition is met

(1) Where a question arises in any proceedings as to whether either of the following is met in respect of a building or part of a building—
- (a) the sole use condition, or
- (b) the significant use condition,

it shall be presumed, for the purposes of the proceedings, that the condition is met unless the contrary is shown.

(2) In this section—
- (a) "the sole use condition" means the condition contained in—
  - (i) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
  - (ii) section 254(4)(e),

  as the case may be; and
- (b) "the significant use condition" means the condition contained in section 255(2) that the occupation of the living accommodation or flat referred to in that provision by persons who do not form a single household constitutes a significant use of that accommodation or flat.

Other general interpretation provisions

VALID FROM 18/01/2005

261 Meaning of "appropriate national authority", "local housing authority" etc.

(1) In this Act "the appropriate national authority" means—
- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the National Assembly for Wales.

(2) In this Act "local housing authority" means, in relation to England—
- (a) a unitary authority;
- (b) a district council so far as it is not a unitary authority;
- (c) a London borough council;
- (d) the Common Council of the City of London (in its capacity as a local authority);
- (e) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple (in his capacity as a local authority); and
- (f) the Council of the Isles of Scilly.

(3) In subsection (2) "unitary authority" means—
- (a) the council of a county so far as it is the council for an area for which there are no district councils;
- (b) the council of any district comprised in an area for which there is no county council.

Status: *Point in time view as at 18/11/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Housing Act 2004 is up to date with all changes known to be in force on or before 06 August 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)*

(4) In this Act "local housing authority" means, in relation to Wales, a county council or a county borough council.

(5) References in this Act to "the local housing authority", in relation to land, are to the local housing authority in whose district the land is situated.

(6) References in this Act to the district of a local housing authority are to the area of the council concerned, that is to say—
  (a) in the case of a unitary authority, the area or district;
  (b) in the case of a district council so far as it is not a unitary authority, the district;
  (c) in the case of an authority within subsection (2)(c) to (f), the London borough, the City of London, the Inner or Middle Temple or the Isles of Scilly (as the case may be); and
  (d) in the case of a Welsh county council or a county borough council, the Welsh county or county borough.

(7) Section 618 of the Housing Act 1985 (c. 68) (committees and members of Common Council of City of London) applies in relation to this Act as it applies in relation to that Act.

VALID FROM 18/01/2005

262 Meaning of "lease", "tenancy", "occupier" and "owner" etc.

(1) In this Act "lease" and "tenancy" have the same meaning.

(2) Both expressions include—
  (a) a sub-lease or sub-tenancy; and
  (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).

And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to leases).

(3) The expressions "lessor" and "lessee" and "landlord" and "tenant" and references to letting, to the grant of a lease or to covenants or terms, are to be construed accordingly.

(4) In this Act "lessee" includes a statutory tenant of the premises; and references to a lease or to a person to whom premises are let are to be construed accordingly.

(5) In this Act any reference to a person who is a tenant under a lease with an unexpired term of 3 years or less includes a statutory tenant as well as a tenant under a yearly or other periodic tenancy.

(6) In this Act "occupier", in relation to premises, means a person who—
  (a) occupies the premises as a residence, and
  (b) (subject to the context) so occupies them whether as a tenant or other person having an estate or interest in the premises or as a licensee;

and related expressions are to be construed accordingly.

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This subsection does not apply for the purposes of Part 5 and has effect subject to any other provision defining "occupier" for any purposes of this Act.

(7) In this Act "owner", in relation to premises—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion; and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds 3 years.

(8) In this Act "person having an estate or interest", in relation to premises, includes a statutory tenant of the premises.

(9) In this Act "licence", in the context of a licence to occupy premises—
- (a) includes a licence which is not granted for a consideration, but
- (b) excludes a licence granted as a temporary expedient to a person who entered the premises as a trespasser (whether or not, before the grant of the licence, another licence to occupy those or other premises had been granted to him);

and related expressions are to be construed accordingly.

And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to licences).

VALID FROM 18/01/2005

263 Meaning of "person having control" and "person managing" etc.

(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—
- (a) receives (whether directly or through an agent or trustee) rents or other payments from—
  - (i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and
  - (ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or
- (b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

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(4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).

(5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

Modifications etc. (not altering text)

C30 S. 263 modified (E.) (1.10.2007) by The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (England) Regulations 2007 (S.I. 2007/1904), **reg. 12(1)**

C31 S. 263 modified (W.) (5.12.2007) by The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (Wales) Regulations 2007 (S.I. 2007/3231), **reg. 12(1)**

264 Calculation of numbers of persons

(1) The appropriate national authority may prescribe rules with respect to the calculation of numbers of persons for the purposes of—

(a) any provision made by or under this Act which is specified in the rules, or

(b) any order or licence made or granted under this Act of any description which is so specified.

(2) The rules may provide—

(a) for persons under a particular age to be disregarded for the purposes of any such calculation;

(b) for persons under a particular age to be treated as constituting a fraction of a person for the purposes of any such calculation.

(3) The rules may be prescribed by order or regulations.

Final provisions

265 Minor and consequential amendments

(1) Schedule 15 (which contains minor and consequential amendments) has effect.

(2) The Secretary of State may by order make such supplementary, incidental or consequential provision as he considers appropriate—

(a) for the general purposes, or any particular purpose, of this Act; or

(b) in consequence of any provision made by or under this Act or for giving full effect to it.

(3) An order under subsection (2) may modify any enactment (including this Act).

"Enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

(4) The power conferred by subsection (2) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly.

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(5) Nothing in this Act affects the generality of the power conferred by this section.

Commencement Information

I215 S. 265 partly in force; s. 265(2)-(5) in force at Royal Assent see s. 270(2)(a); s. 265(1) in force for W. for certain purposes at 14.7.2005 by S.I. 2005/1814, **art. 2(d)**; s. 265(1) in force for E. for certain purposes at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 265(1) in force for W. for certain purposes at 16.6.2006 by S.I. 2006/1535, **art. 2(b)** (with art. 3, Sch.); s. 265(1) in force for E. for certain purposes at 2.1.2007 by S.I. 2006/3191, **art. 2(c)**; s. 265(1) in force for W. for certain purposes at 13.12.2007 by S.I. 2007/3232, **art. 2(c)**

VALID FROM 06/04/2006

266 Repeals

Schedule 16 (which contains repeals) has effect.

Commencement Information

I216 S. 266 partly in force; s. 266 not in force at Royal Assent see s. 270(4)(5); s. 266 in force for E. for certain purposes at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(e)** (with Sch.); s. 266 in force for W. for certain purposes at 16.6.2006 by S.I. 2006/1535, **art. 2(c)** (with Sch.); s. 266 in force for E. for certain purposes at 6.4.2007 by S.I. 2007/1068, **art. 2(b)**

267 Devolution: Wales

In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) references to the following Acts are to be treated as references to those Acts as amended by virtue of this Act—

(a) the Housing Act 1985 (c. 68);
(b) the Housing Act 1988 (c. 50);
(c) the Housing Act 1996 (c. 52).

268 The Isles of Scilly

(1) This Secretary of State may by order provide that, in its application to the Isles of Scilly, this Act is have effect with such modifications as are specified in the order.

(2) Where a similar power is exercisable under another Act in relation to provisions of that Act which are amended by this Act, the power is exercisable in relation to those provisions as so amended.

269 Expenses

There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State by virtue of this Act;
(b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

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270 Short title, commencement and extent

(1) This Act may be cited as the Housing Act 2004.

(2) The following provisions come into force on the day on which this Act is passed—
- (a) sections 2, 9, 161 to 164, 176, 190, 208, 216, 233, 234, 244, 248, 250, 252, 264, 265(2) to (5), 267 to 269 and this section, and
- (b) any other provision of this Act so far as it confers any power to make an order or regulations which is exercisable by the Secretary of State or the National Assembly for Wales.

Subsections (3) to (7) have effect subject to paragraph (b).

(3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
- (a) sections 180, 182 to 189, 195 to 207, 209 to 211, 217, 218, 219, 222, 224, 245 to 247, 249, 251 and 253 to 263,
- (b) Schedule 9,
- (c) Schedule 11, except paragraphs 15 and 16, and
- (d) Schedule 14.

(4) The provisions listed in subsection (5) come into force—
- (a) where they are to come into force in relation only to Wales, on such day as the National Assembly for Wales may by order appoint, and
- (b) otherwise, on such day as the Secretary of State may by order appoint.

(5) The provisions referred to in subsection (4) are—
- (a) Part 1 (other than sections 2 and 9),
- (b) Parts 2 to 4,
- (c) sections 179, 181, 191 to 194, 212 to 215, 220, 221, 223, 225, 226, 227, 229 to 232, 235 to 243, 265(1) and 266,
- (d) Schedule 10,
- (e) paragraphs 15 and 16 of Schedule 11, and
- (f) Schedules 13, 15 and 16.

(6) Part 5 (other than sections 161 to 164 and 176) comes into force on such day as the Secretary of State may by order appoint.

(7) Section 228 and Schedule 12 come into force on such day as the National Assembly for Wales may by order appoint.

(8) Different days may be appointed for different purposes or different areas under subsection (4), (6) or (7).

(9) The Secretary of State may by order make such provision as he considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.

(10) The power conferred by subsection (9) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly

(11) Subject to subsections (12) and (13), this Act extends to England and Wales only.

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(12) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates, except that any amendment or repeal in—

the Mobile Homes Act 1983 (c. 34), or

the Crime and Disorder Act 1998 (c. 37),

extends to England and Wales only.

(13) This section extends to the whole of the United Kingdom.

Subordinate Legislation Made

P1 S. 270(4)(5) power partly exercised: 17.2.2005 appointed for specified provisions by {S.I. 2005/326}, art. 2;
S. 270(4)(5) power partly exercised: 27.4.2005 appointed for specified provisions by {S.I. 2005/1120}, art. 2;
S. 270(4)(5) power partly exercised: 6.6.2005 and 15.6.2005 appointed for specified provisions by {S.I. 2005/1451}, arts. 2, 3;
S. 270(4)(5) power partly exercised: 4.7.2005 appointed for specified provisions by {S.I. 2005/1729}, art. 2 (with art. 3);
S. 270(4)(5) power partly exercised: 14.7.2005 appointed for specified provisions by {S.I. 2005/1814}, art. 2;
S. 270(4)(5) power partly exercised: 25.11.2005 appointed for specified provisions by {S.I. 2005/3237}, art. 2;
S. 270(4)(5) power partly exercised: 6.4.2006 and 6.7.2006 appointed for specified provisions by {S.I. 2006/1060}, art. 2 (with art. 3, Sch.);
S. 270(4)(5) power partly exercised: 16.6.2006 appointed for specified provisions by {S.I. 2006/1535}, art. 2 (with art. 3, Sch.);
S. 270(4)(5) power partly exercised: 2.1.2007 appointed for specified provisions and purposes by {S.I. 2006/3191}, art. 2;
S. 270(4)(5) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/305}, art. 2;
S. 270(4)(5) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/1068}, art. 2;
S. 270(4)(5) power partly exercised: 13.12.2007 appointed for specified provisions by {S.I. 2007/3232}, art. 2

P2 S. 270(6) power partly exercised: 1.8.2007 appointed for specified provisions and purposes by {S.I. 2007/1668}, arts. 2-4;
S. 270(6) power partly exercised: 10.9.2007 appointed for specified provisions and purposes by {S.I. 2007/2471}, arts. 2-4;
S. 270(6) power partly exercised: 14.12.2007 appointed for specified provisions and purposes by {S.I. 2007/3308}, arts. 2-4;
S. 270(6) power fully exercised: 6.8.2008 appointed for specified provisions by {S.I. 2008/898}, art. 2

P3 S. 270(7) power fully exercised: 14.7.2005 appointed for specified provisions by {S.I. 2005/1814}, art. 2

Status:
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