



Housing Act 1964

1964 CHAPTER 56

PART II

COMPULSORY IMPROVEMENT OF DWELLINGS TO PROVIDE STANDARD AMENITIES

General provisions as to improvement notices and undertakings

26 General provisions as to improvement notices

- (1) Any improvement notice shall, if no appeal is brought against the improvement notice under the next following section, become operative on the expiration of six weeks from the date of the service of the improvement notice on the person having control of the dwelling or other premises; and any improvement notice against which an appeal is so brought shall, if and so far as it is confirmed by the county court, or on appeal from the county court, become operative on the final determination of the appeal.
- (2) For the purposes of the foregoing subsection the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the improvement notice or decision appealed against.
- (3) An improvement notice shall, subject to the right of appeal conferred by the next following section, be final and conclusive as to any matters which could be raised on any such appeal.
- (4) Without prejudice to the provisions of this Part of this Act making it the duty of a local authority to withdraw an improvement notice in specified circumstances, the local authority may, if they think fit, at any time withdraw any improvement notice, including a final improvement notice served in connection with a suspended improvement notice.

The withdrawal shall be effected by serving notice of the withdrawal on the person having control of the dwelling or other premises, and the local authority shall serve a copy of the notice on the occupier of the dwelling (if different from the person having control of the dwelling) and on every person who, to the knowledge of the local authority, is an owner, lessee or mortgagee of the dwelling or other premises.

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If the improvement notice relates to a tenement block a copy of the notice shall be served on the occupier of every dwelling in the tenement block.

- (5) In the application of this section to Scotland—
- (a) the words " or other premises ", wherever they occur, shall be omitted;
 - (b) in subsection (1), for the words from " and any " to the end there shall be substituted the words " and any improvement notice against which an appeal is so brought shall—
 - (i) if and so far as it is confirmed by the sheriff, become operative on the final determination of the appeal;
 - (ii) if, in the case of an immediate improvement notice served under section 22 of this Act, it is suspended by the sheriff under paragraph (a)(ii) of section 27(10) of this Act, it shall become operative on the suspension ceasing to have effect in terms of the said paragraph " ;
 - (c) any period after the service of an immediate improvement notice under section 22 of this Act and while an undertaking given under section 25 of this Act is under consideration, and any period while a suspension order under paragraph (a) of subsection (1) of the said section 25 is in force, shall be left out of account in reckoning, in relation to the said immediate improvement notice, the period of six weeks referred to in subsection (1) of this section ;
 - (d) in subsection (2), the words " or decision " shall be omitted;
 - (e) in subsection (4), the words from " If the improvement notice " to the end shall be omitted ;
 - (f) as soon as practicable after service of a withdrawal notice under this section the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

27 Appeal against improvement notice

- (1) Within six weeks from the service on the person having control of the premises of an improvement notice, any such person or any other person having an estate or interest in the premises, other than a person whose only estate or interest is as a tenant occupying the premises, may appeal to the county court against the improvement notice.
- (2) The grounds of the appeal may be all or any of the following, that is—
 - (a) that it is not practicable to comply with the requirements of the improvement notice at reasonable expense, regard being had to the estimated cost of the works and the value which it is estimated that the dwelling or other premises will have when the works are completed;
 - (b) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works specified in the notice are otherwise unreasonable in character or extent;
 - (c) that the dwelling, or any of the dwellings in the premises, is not, or is no longer, without one or more of the standard amenities, or that the dwelling or other premises after being improved would not be in such condition as to be fit for human habitation, and likely, subject to normal maintenance, to remain in that condition and available for use as living accommodation for a period of not less than fifteen years ;

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- (d) that some person other than the appellant will as the holder of an estate or interest in the dwelling or other premises, derive a benefit from the execution of the works and that that person ought to pay the whole or part of the cost of the execution of the works;
 - (e) that the improvement notice is invalid on the ground that any requirement of this Act has not been complied with or on the ground of some informality, defect or error in or in connection with the improvement notice.
- (3) In so far as an appeal under this section is based on the ground that the improvement notice is invalid, the court shall confirm the improvement notice unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (4) No appeal shall be brought against a final improvement notice on any ground which is a ground on which an appeal was brought, or might have been brought, against the suspended improvement notice to which the final improvement notice relates except so far as that ground depends on an alteration in the dwelling or the building of which the dwelling forms part, or on some other change in circumstances, which has taken place since the service of the suspended improvement notice.
- (5) On any appeal under this section the court may, subject to subsection (7) of this section, make such order either confirming or quashing or varying the improvement notice as the court thinks fit but not, in the case of an immediate improvement notice or a final improvement notice, so as to extend the period within which the works are to be carried out.
- (6) On any appeal under this section the court may, if the court thinks fit, accept from an appellant or any other party to the proceedings an undertaking to carry out the works specified in the improvement notice, or any such works as might have been so specified if the court exercised its jurisdiction to vary the improvement notice ; and any undertaking accepted by the court shall have the same effect as if it had been given to and accepted by the local authority under this Part of this Act, and had not been given to the court.
- (7) An improvement notice shall not be varied on an appeal under this section—
- (a) so as to require the carrying out of works to improve a dwelling to the full standard if the works specified in the improvement notice appealed against were works to improve the dwelling to the reduced standard, or
 - (b) so as to require the carrying out of works to improve a dwelling to the reduced standard if the works specified in the improvement notice appealed against were works to improve the dwelling to the full standard.
- (8) Where the grounds on which an appeal under this section is brought include the grounds specified in subsection (2)(d) of this section, the court may on the hearing of the appeal make such order as it thinks fit with respect to the payment to be made by that other person to the appellant or, where the works are carried out by the local authority, to the local authority.
- (9) If an improvement notice is quashed by the county court, or on appeal from the county court, the court taking the decision may, if it thinks fit, and subject to compliance by the local authority with such terms and conditions as the court thinks fit to impose, extend the time within which, under section 15(2), section 19(4) or section 21(2) of this Act, as the case may be, the local authority may serve a further improvement notice in respect of the dwelling.

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- (10) This section shall apply to Scotland subject to the following modifications:—
- (a) the persons who may appeal under subsection (1) against an immediate improvement notice served under section 22 of this Act in respect of any dwelling shall include a tenant occupying that dwelling, and subsections (2) to (9) shall not apply in relation to an appeal by such a tenant, but—
 - (i) such a tenant may appeal only on the ground that the carrying out of the works specified in the improvement notice will cause unreasonable hardship to him or to any member of his family residing with him, regard being had to the age, health and any infirmity of the tenant or any such member;
 - (ii) on such an appeal the sheriff may either confirm or suspend the improvement notice as he thinks fit, and any such suspension shall cease to have effect when there is a change in the occupation of the dwelling;
 - (iii) for the purposes of sub-paragraph (ii) of this paragraph there is a change in the occupation of a dwelling when the tenant who was occupying the dwelling when the improvement notice was suspended by the sheriff ceases to occupy the dwelling, except that there is no change in the occupation of the dwelling if, on the tenant ceasing to occupy the dwelling, it is occupied by a member of his family who was residing with him immediately before he ceased to occupy the dwelling;
 - (b) any period after the service of an immediate improvement notice under section 22 of this Act and while an undertaking given under section 25 of this Act is under consideration, and any period while a suspension order under paragraph (a) of subsection (1) of the said section 25 is in force, shall be left out of account in reckoning, in relation to the said immediate improvement notice, the period of six weeks referred to in subsection (1) of this section;
 - (c) in subsection (2), the words " or other premises ", where ever they occur, and the words " or any of the dwellings in the premises " shall be omitted ;
 - (d) where in pursuance of subsection (6) of this section the sheriff accepts an undertaking to carry out works on a dwelling comprised in a tenement, being a dwelling in respect of which an immediate improvement notice has been served under section 22 of this Act, he shall direct the local authority to make an order (in this Part of this Act referred to as a " suspension order ") suspending the immediate improvement notice appealed against and any other immediate improvement notice which in the opinion of the sheriff ought to be suspended in consequence of his acceptance of the undertaking, and for the purposes of this Part of this Act a suspension order made by a local authority in compliance with a direction of the sheriff given under this paragraph shall be deemed to have been made by them under section 25(1)(a) of this Act;
 - (e) in subsection (9), the words " or on appeal from the county court" shall be omitted, and for the words " section 21(2) " there shall be substituted the words " section 22(1) ";
 - (f) where an improvement notice is quashed on an appeal under this section the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines a notice stating that the said notice has been quashed as aforesaid.

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28 Enforcement of improvement notices and undertakings to carry out works

- (1) If the works to be carried out in compliance with an immediate improvement notice or a final improvement notice (as read with the suspended improvement notice), or an undertaking accepted under this Part of this Act, have not been carried out in whole or in part within the period specified in the notice or undertaking, or within any further period which the local authority have by permission given in writing allowed, the local authority may themselves do the work which has not been completed.
- (2) If before the expiration of the period mentioned in the foregoing subsection the person who is for the time being the person having control of the dwelling or who is bound by the undertaking notifies the local authority in writing that he does not intend or is unable to do the work in question, the local authority may, if they think fit, do the work before the expiration of the said period.
- (3) Not less than twenty-one days before beginning to do the work, the local authority shall serve notice of their intention on the occupier of the dwelling, on the person having control of the dwelling and on every other person who is to the knowledge of the local authority an owner, lessee or mortgagee of the dwelling.
- (4) This section shall apply in relation to an improvement notice or undertaking relating to a tenement block as if for the reference in subsection (3) to the occupier of the dwelling there were substituted a reference to the occupier of each dwelling in the tenement block and as if in subsections (2) and (3) references to the dwelling in any other context were references to the tenement block.
- (5) Subsection (4) of this section shall not apply to Scotland.

29 Recovery of expenses incurred by local authority in England and Wales on default under improvement notice

- (1) Any expenses reasonably incurred by the local authority under the last foregoing section in carrying out works (not being works to which that section applied as being works as respects which an undertaking was accepted under this Part of this Act) may, except so far as they are by any direction of the court on appeal recoverable under an order of the court, be recovered by them by action from the person on whom the improvement notice was served:

Provided that if the person served with an improvement notice proves that he—

- (a) was only properly served with the notice as being an agent or trustee for some other person, and
- (b) does not have, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has, or has had, in his hands as aforesaid.

- (2) If the person served with an improvement notice was only properly served as being an agent or trustee for some other person, the said expenses may be recovered by the local authority under subsection (1) of this section either from him or from that other person, or as to part from him and as to the remainder from that other person.
- (3) Expenses recoverable by the local authority under subsection (1) of this section shall carry interest at the rate, or the highest rate, for the time being fixed under section 10(6) of the Act of 1957.

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A demand for the expenses so recoverable, together with interest so payable, shall be served on the person on whom the improvement notice was served, and interest shall be payable from the date when the demand is so served until payment.

- (4) The amount of any expenses and interest thereon due to a local authority under this section shall, as from the date when the demand under subsection (3) of this section becomes operative, be a charge on the premises in respect of which the expenses were incurred, and on all estates and interests in those premises, and the local authority shall for the purpose of enforcing that charge have all the same powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

The power of appointing a receiver under this subsection shall be exercisable at any time after the expiration of one month from the date when the said demand becomes operative.

- (5) On the date on which a local authority under subsection (3) of this section serve a demand for expenses incurred by them, they shall also serve a copy of the demand on any person who is to their knowledge an owner or lessee or mortgagee of the dwelling or other premises to which the improvement notice relates; and within twenty-one days from that date any person may appeal to the county court against the demand.

On the appeal no question may be raised which might have been raised on an appeal against the improvement notice (or, in the case of a final improvement notice, against the relevant suspended improvement notice).

- (6) Any such demand shall, if no appeal is brought under the last foregoing subsection, become operative on the expiration of twenty-one days from the date of service of the demand; and any such demand as respects which an appeal is so brought shall, if and so far as it is confirmed on appeal, become operative on the final determination of the appeal.

For the purposes of this subsection the withdrawal of an appeal shall be deemed to be a final determination thereof having the like effect as a decision confirming the demand appealed against.

- (7) Any such demand shall, subject to the right of appeal conferred by subsection (5) of this section, be final and conclusive as to any matters which can be raised on such an appeal.
- (8) This section shall not apply to Scotland.

30 Recovery of expenses incurred by local authority in England and Wales on default by person giving undertaking

- (1) Any expenses reasonably incurred by the local authority under section 28 of this Act in carrying out works to which that section applied as being works as respects which an undertaking was accepted under this Part of this Act, together with interest from the date when a demand for the expenses is served until payment, may be recovered by them by action from the person who gave the undertaking.
- (2) Interest under this section shall be at the rate, or the highest rate, for the time being fixed under section 10(6) of the Act of 1957.

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(3) This section shall not apply to Scotland.

31 Recovery of expenses incurred by local authority in Scotland

- (1) Subsections (3), (4) and (5) of section 8 of the Act of 1950 (which relate to the recovery by a local authority of expenses incurred by them in executing works on an insanitary house) shall, subject to any necessary modifications, apply for the purpose of enabling a local authority to recover any expenses reasonably incurred by them under section 28 of this Act in carrying out works in pursuance of that section as they apply for the purpose of enabling a local authority to recover the first-mentioned expenses, so, however, that the person from whom expenses incurred by a local authority in carrying out works in pursuance of the said section 28 may be recovered shall, in the case of works to which that section applied as being works as respects which an undertaking was accepted under this Part of this Act, be the person who gave the undertaking.
- (2) Section 16 of the Act of 1950 (appeals) shall apply in relation to a demand by a local authority for the recovery of expenses incurred by them in carrying out works in pursuance of section 28 of this Act and in relation to an order made by a local authority with respect to any such expenses.
- (3) This section shall not apply in relation to the recovery by a local authority of any expenses so far as such expenses are by any direction of the sheriff on appeal recoverable under an order of the sheriff.

32 Charging orders in favour of persons carrying out works in England and Wales

Sections 14 and 15 of the Act of 1957 (charging orders in favour of owner executing works) shall apply as if any reference to works required to be executed by a notice under Part II of that Act included a reference to works required to be carried out by an immediate improvement notice or a final improvement notice.

33 Charging orders in Scotland

- (1) Where any person has completed, in respect of any dwelling, any works required to be executed by an improvement notice or any works as respects which an undertaking was accepted under this Part of this Act, he may apply to the local authority for a charging order, and subsections (2) to (4) of section 20, and section 21, of the Act of 1950 shall, with any necessary modifications, apply in relation to any such application or order as they apply in relation to an application or order under the said section 20 and as if any reference in the said section 21 to Part II of the Act of 1950 included a reference to this Part of this Act.
- (2) Where under section 28 of this Act a local authority have themselves incurred expenses in the execution of works, it shall be competent for them to make a charging order in favour of themselves in respect of such expenses, and subsections (2) to (4) of section 20, and section 21, of the Act of 1950 shall, with any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under the said section 20 and as if any reference in the said section 21 to Part II of the Act of 1950 included a reference to this Part of this Act.