



Housing Act 1964

1964 CHAPTER 56

PART II

COMPULSORY IMPROVEMENT OF DWELLINGS TO PROVIDE STANDARD AMENITIES

Other supplemental provisions

39 Provisions as to carrying out of works

- (1) The person having control of any premises—(a) which consist of or comprise a dwelling in an improvement area which is without all or any of the standard amenities, or
(b) which consist of or comprise a dwelling in respect of which representations have been made by the tenant under section 19(1) of this Act, or
(c) which consist of a tenement block in respect of which a preliminary notice has been served,

shall, as against any other person having an estate or interest in the premises, have the right to enter the premises in order to carry out any survey or examination required with a view to providing the dwelling or, as the case may be, any of the dwellings in the tenement block, with any of the standard amenities.

- (2) After service of an immediate improvement notice or a final improvement notice in respect of any dwelling or tenement block, the person having control of the dwelling or, as the case may be, the tenement block shall have the right, as against any other person having an estate or interest in the premises, to take any reasonable steps for the purpose of complying with the improvement notice; and any person bound by an undertaking accepted under this Part of this Act shall have the right as against the occupier of the premises to which the undertaking relates to take any reasonable steps for the purpose of complying with the undertaking.
- (3) Section 161 of the Act of 1957 (penalty for preventing execution of works) shall apply as if any reference in that section to Part II of that Act included a reference to this Part of this Act.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Without prejudice to the provisions of subsection (2) of this section, the carrying out of works in pursuance of an improvement notice or an undertaking accepted under this Part of this Act shall not give rise to any liability on the part of a lessee to reinstate the premises at any time in the condition in which they were before the works were carried out, or to any liability for failure so to reinstate the premises.
- (5) In the application of this section to Scotland—
 - (a) in subsections (1) and (2), the references to a tenement block shall be omitted ;
 - (b) in subsection (3), for the reference to the Act of 1957 there shall be substituted a reference to the Act of 1950.

40 Further powers and duties of local authority

- (1) Section 159 of the Act of 1957 (which confers powers of entry on local authorities for the purposes mentioned in that section) shall apply to entry for the purpose of survey and examination of any dwelling with a view to ascertaining whether the requirements of any improvement notice served, or undertaking accepted, under this Part of this Act have been complied with.
- (2) A local authority may by agreement with a person having control of a dwelling or any other person having an estate or interest in a dwelling execute at his expense any work which that person is required to carry out in the dwelling in pursuance of an improvement notice or of an undertaking accepted under this Part of this Act, and for that purpose the local authority shall have all such rights as that person would have as against any other person having an interest in the dwelling.
- (3) Where under this Part of this Act a local authority are required to serve a copy of a notice on any person who is to their knowledge an owner, lessee or mortgagee of any premises, any person having an estate or interest in those premises who is not served with a copy of the notice shall, on application in writing to the local authority, be entitled to obtain a copy of that notice.
- (4) In the application of this section to Scotland, in subsection (1) for the reference to the Act of 1957 there shall be substituted a reference to the Act of 1950.

41 Exclusion of dwellings controlled by Crown or a public authority

- (1) No preliminary notice or improvement notice shall be served in respect of any premises in which there is a Crown or Duchy interest except with the consent of the appropriate authority and, where a preliminary notice or improvement notice is served with the consent of the appropriate authority, this Part of this Act shall apply to the premises as it applies to premises in which there is no such interest.
- (2) No preliminary notice or improvement notice shall be served in respect of any premises if the person having control of the premises is—
 - (a) a local authority,
 - (b) the Commission for the New Towns or a development corporation,
 - (c) a housing association satisfying one of the conditions set out in paragraphs (a), (b) and (c) of section 33(2) of the Housing Repairs and Rents Act 1954 (exclusion of certain lettings from Rent Acts) or, in Scotland, a housing association satisfying one of the conditions set out in paragraphs (a), (b) and (c) of section 25(2) of the Scottish Act of 1954 (exclusion of certain lettings from Rent Acts),

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (d) a housing trust which is a charity within the meaning of the Charities Act 1960 or, in Scotland, a housing trust within the meaning of section 39(1) of the Scottish Act of 1954 which was in existence on 13th November 1953,
- (e) the Scottish Special Housing Association,
- (f) the Housing Corporation established under Part I of this Act, or
- (g) an executive council constituted under section 32 of the National Health Service (Scotland) Act 1947,

and if after such a notice is served any such authority as is mentioned in paragraphs (a) to (g) above becomes the person having control of the premises, any such notice as respects the premises, and any undertaking accepted under this Part of this Act as respects the premises, shall cease to have effect.

- (3) If, in consequence of the provisions of subsection (2) of this section, an improvement notice ceases to have effect it shall be the duty of the authority mentioned in paragraphs (a) to (g) of that subsection—
 - (a) where the notice related to a dwelling or other premises in England and Wales, to notify the officer who registered the notice or undertaking in the register of local land charges, and to furnish him with all information required by him for the purpose of cancelling the registration, and
 - (b) where the notice related to a dwelling in Scotland, to notify the local authority and to furnish them with all information required by them for the purpose of recording in the General Register of Sasines a notice stating that the improvement notice has ceased to have effect, and the local authority shall as soon as practicable after receiving such notification cause to be recorded in the General Register of Sasines a notice to the said effect.
- (4) In this section " Crown or Duchy interest" means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, and " the appropriate authority "—
 - (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land ;
 - (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
 - (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and
 - (d) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

- (5) In this section " local authority " means—
 - (a) in relation to England and Wales, any authority being, within the meaning of the Local Loans Act 1875 an authority having power to levy a rate, and includes—
 - (i) any joint board or joint committee all the constituent members of which are such authorities as aforesaid, and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (ii) any police authority, but does not include the Receiver for the Metropolitan Police District;
- (b) in relation to Scotland, a local authority, joint board or joint committee as respectively defined by the Local Government (Scotland) Act 1947.

42 Exclusion of certain dwellings provided after 1944

This Part of this Act shall not apply to a dwelling provided after the end of the year 1944, unless the dwelling was provided by the conversion before 3rd October 1961 or, in the case of a dwelling provided in Scotland, by the conversion before the end of the year 1958, of a building erected before the end of the year 1944.

43 Definition of standard amenities and related expressions

- (1) Subject to this section, in this Part of this Act " the standard amenities ", in relation to a dwelling, mean the following amenities provided for the exclusive use of the occupants of the dwelling, that is—
 - (a) a fixed bath or shower, which, subject to subsection (2) of this section, is to be in a bathroom ;
 - (b) a wash-hand basin ;
 - (c) a hot and cold water supply at a fixed bath or shower, which, if reasonably practicable, is to be in a bathroom ;
 - (d) a hot and cold water supply at a wash-hand basin;
 - (e) a hot and cold water supply at a sink ;
 - (f) a water closet; and
 - (g) satisfactory facilities for storing food.
- (2) The fixed bath or shower mentioned in paragraph (a) above may, if it is not reasonably practicable for it to be provided in a bathroom, but it is reasonably practicable for it to be provided with a hot and cold water supply, be in a part of the dwelling which is not a bathroom or bedroom.
- (3) The water closet mentioned in paragraph (f) above must, if reasonably practicable, be in, and readily accessible from, the dwelling or, if that is not reasonably practicable, in such a position in the curtilage of the dwelling, or where the dwelling is part of a larger building, in that building, as to be readily accessible from the dwelling.
- (4) In relation to a dwelling which is without one or more of the standard amenities, references in this Part of this Act to the improvement of the dwelling to the full standard are references to the carrying out of works to provide the dwelling with those of the standard amenities which it does not have.
- (5) In relation to a dwelling which is without one or more of the standard amenities listed in paragraphs (e), (f) and (g) of subsection (1) of this section, references in this Part of this Act to the improvement of the dwelling to the reduced standard are references to the carrying out of works to provide the dwelling with those of the said standard amenities listed in paragraphs (e), (f) and (g) of subsection (1) of this section which it does not have.
- (6) In determining for the purposes of this Part of this Act whether a dwelling is capable of improvement at reasonable expense to the full standard, or to the reduced standard, regard shall be had to the estimated cost of the works which would be required to provide the dwelling with amenities to the full standard or to the reduced standard,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

as the case may be, and to the value which it is estimated that the dwelling (or the building of which the dwelling forms part) would have if those works were carried out.

- (7) An order under section 4 or, in relation to Scotland, section 19 of the Act of 1959 varying the standard amenities for the purposes of that Act may also vary the provisions of this section and may contain such transitional and other supplemental provisions, including transitional provisions to take account of the provisions of this Part of this Act, as may appear to the Minister or, as the case may be, to the Secretary of State to be expedient.

44 Interpretation and construction of Part II

- (1) In this Part of this Act, unless the context otherwise requires—

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

" flat " means a separate set of premises, whether or not on the same floor, constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally ;

" improvement area " means an improvement area under section 13 of this Act;

" improvement notice " means a suspended improvement notice, an immediate improvement notice or a final improvement notice;

" local authority " means the council of a county borough, London borough or county district or the Common Council of the City of London, and in relation to Scotland means a local authority for the purposes of the Act of 1950; and, in relation to a dwelling or other premises, references to the local authority are references to the local authority in whose district the premises are situated;

" owner ", in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple, and in relation to Scotland has the meaning given by section 184(1) of the Act of 1950 ;

" the person having control "—

(a) in relation to any premises in England and Wales, means the person who receives any rent (including a rack-rent) payable by the tenant (as defined in this section) of the premises, whether on his own account or as agent or trustee for any other person, or who would so receive the rent if the premises were let at a rack-rent, and for the purposes of this definition " rack-rent " means rent which is not less than two-thirds of the full net annual value of the premises, and

(b) in relation to any premises in Scotland has the meaning given by section 7(3) of the Act of 1950;

" tenement " means a building which as constructed contained, and which contains, two or more flats;

" tenement block " means a building or a part of a building which was constructed in the form of, and consists of, two or more flats.

- (2) In this Part of this Act, unless the context otherwise requires, " tenant"—

(a) includes a sub-tenant and a tenant (as defined in section 12(1)(g) of the Rent and Mortgage Interest (Restrictions) Act 1920) who retains possession by

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

virtue of the Rent Acts and not as being entitled to a tenancy, but does not include—

- (i) in relation to England and Wales, a tenant holding under a lease granted for a term certain of more than twenty-one years at a rent of less than two-thirds of the full net annual value of the demised premises, or a mortgagee in possession,
 - (ii) in relation to Scotland, a tenant holding under a lease granted for a period of more than twenty-one years at a rent of less than two-thirds of the net annual value for rating purposes of the leased premises, or a heritable creditor in possession, and
 - (b) includes, in relation to a dwelling, a person employed in agriculture (as defined in section 17(1) of the Agricultural Wages Act 1948, or in relation to Scotland, section 17 of the Agricultural Wages (Scotland) Act 1949) who occupies or resides in the dwelling as part of the terms of his employment,
- and " tenancy " shall be construed accordingly.

References in this Part of this Act to a tenant occupying a dwelling include, in the case of a tenant within paragraph (b) of this definition, a tenant residing in the dwelling and " occupation " and " occupied " and related expressions shall be construed accordingly; and in relation to a dwelling occupied by such a tenant " the person having control " of the dwelling means, in this Part of this Act, the employer or other person by whose authority the tenant occupies the dwelling.

- (3) Sections 4 and 5 of the Act of 1957 or, in relation to Scotland, section 24 of the Act of 1962 and section 23 of the Act of 1950 shall apply for the determination for the purposes of this Part of this Act of any question whether any dwelling—
 - (a) is fit or unfit for human habitation, or
 - (b) will be likely, subject to normal maintenance, to remain fit for human habitation and available for use as a dwelling for a period of not less than fifteen years,
 and in determining the question under paragraph (b) of this subsection the term " normal maintenance " shall include only such repairs as are reasonable having regard to the prospective life of the dwelling.
- (4) This Part of this Act, in its application to England and Wales, shall be construed as one with the Act of 1957 and, in its application to Scotland, shall be construed as one with the Act of 1950.