



# Housing Act 1964

## 1964 CHAPTER 56

### PART IV

#### HOUSES IN MULTIPLE OCCUPATION

##### *Control orders*

#### **73 Making of control order**

- (1) A local authority may make an order under this section (in this Part of this Act referred to as a "control order") as respects a house in their district which, or a part of which, is let in lodgings, or which is occupied by members of more than one family—
  - (a) if an order under section 12 of the Act of 1961 is in force as respects the house, or a notice has been served or direction given as respects the house under section 14, section 15 or section 19 of that Act, or
  - (b) if it appears to the local authority that the state or condition of the house is such as to call for the taking of any such action as may be taken under any of those sections,and if it appears to the local authority that the living conditions in the house are such that it is necessary to make the control order in order to protect the safety, welfare or health of persons living in the house.
- (2) A control order shall come into force when it is made, and as soon as practicable after making a control order the local authority shall, in exercise of the powers conferred in this Part of this Act, and having regard to the duties imposed on them by this Part of this Act, enter on the premises and take all such immediate steps as appear to them to be required to protect the safety, welfare or health of persons living in the house.
- (3) As soon as practicable after making a control order the local authority shall—
  - (a) post a copy of the order, together with a notice as described in subsection (4) of this section, in some position in the house where it is accessible to those living in the house, and

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- (b) serve a copy of the order, together with such a notice, on every person who, to the knowledge of the local authority.—
  - (i) was, immediately before the coming into force of the control order, a person managing, or having control of, the house within the meaning of this Part of this Act, or
  - (ii) is an owner or lessee or mortgagee of the house.
- (4) The notice mentioned above shall set out the effect of the order in general terms, referring to the rights of appeal against control orders conferred by this Part of this Act and stating the principal grounds on which the local authority consider it necessary to make a control order.
- (5) As soon as practicable after the making of a control order, the control order shall be registered in the register of local land charges by the proper officer of the local authority in the prescribed manner.

The power conferred by section 15(6) of the Land Charges Act 1925 to make rules giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this subsection; and in this subsection "prescribed" means prescribed by rules made in the exercise of that power.

- (6) In the application of this section to Scotland, subsection (5) shall not apply, but as soon as practicable after the making of a control order the local authority shall cause the order to be recorded in the General Register of Sasines.

#### **74 General effect of control order**

- (1) While a control order is in force the local authority shall, subject to the provisions of the next following section relating to persons who are occupying parts of the house, have the right to possession of the premises and the right to do (and authorise others to do) in relation to the premises anything which any person having an estate or interest in the premises would, but for the making of the control order, be entitled to do without incurring any liability to any such person except as expressly provided by this Part of this Act.
- (2) Subject to the next following subsection, the local authority may, notwithstanding that they do not, under this section, have an interest amounting to an estate in law in the premises, create an interest in the premises which, as near as may be, has the incidents of a leasehold and, subject to the provisions of the next following section relating to the Rent Acts and to any other express provision of this Part of this Act, any enactment or rule of law relating to landlords and tenants or leases shall apply in relation to any interest created under this section, and in relation to any lease to which the local authority become a party under the next following section, as if the local authority were the legal owner of the premises.
- (3) The local authority shall not, in exercise of the powers conferred by this section, create any right in the nature of a lease or licence which is for a fixed term exceeding one month, or which is terminable by notice to quit (or an equivalent notice) of more than four weeks:

Provided that this subsection shall not apply to a right created with the consent in writing of the person or persons who would have power to create that right if the control order were not in force.

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- (4) On the coming into force of a control order any order under section 12 of the Act of 1961, and any notice or direction under section 14, 15, 16 or 19 of that Act, shall cease to have effect as respects the house to which the control order applies, but without prejudice to any criminal liability incurred before the coming into force of the control order, or to the right of the local authority to recover any expenses incurred in carrying out any works.
- (5) References in Part V of the Act of 1957 or in any other enactment to housing accommodation provided or managed by the local authority shall not include references to any house which is subject to a control order, but this subsection shall not be taken as restricting the powers of acquiring land by agreement or compulsorily conferred on local authorities by the said Part V.
- (6) In the application of this section to Scotland—
  - (a) in subsection (2), for the references to an estate in law and to a leasehold, there shall be substituted respectively references to an estate and to a lease, and for the reference to the legal owner of the premises there shall be substituted a reference to the owner of the premises;
  - (b) in subsection (5), for the words " Part V of the Act of 1957 " there shall be substituted the words " Parts V and VIII of the Act of 1950 ".

## **75 Effect of control order on persons occupying house**

- (1) This section applies to any person—
  - (a) who, at the time when a control order comes into force, is occupying any part of the house, and
  - (b) who at that time is not a person who has an estate or interest in the whole of the house.
- (2) The last foregoing section shall not affect the rights or liabilities of a person to whom this section applies under any lease, licence or agreement, whether in writing or not, under which that person is occupying any part of the house at the time when the control order comes into force ; and—
  - (a) any such lease, licence or agreement shall, while the control order is in force, have effect as if the local authority were substituted in the lease, licence or agreement for any party to the lease, licence or agreement who has an estate or interest in the house and who is not a person to whom this section applies, and
  - (b) any such lease shall continue to have effect as near as may be as a lease notwithstanding that the rights of the local authority, as substituted for the lessor, do not amount to an estate in law in the premises.
- (3) Section 33 of the Housing Repairs and Rent Act 1954 (which excludes lettings by local authorities from the Rent Acts) shall not apply to any lease or agreement under which a person to whom this section applies is occupying any part of the house, and if immediately before the control order came into force any person to whom this section applies was occupying part of the house under a tenancy to which the Rent Acts applied (including a statutory tenancy), nothing in this Part of this Act shall prevent the Rent Acts from continuing to apply after the coming into force of the control order.
- (4) So much of any regulations made under section 13 of the Act of 1961 (regulations prescribing management code) as imposes duties on persons who live in a house to which the regulations apply shall apply also to persons who live in a house as respects which a control order is in force.

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- (5) Without prejudice to the rights conferred on the local authority by the last foregoing section, the local authority, and any person authorised in writing by the local authority, shall have the right at all reasonable times, as against any person having an estate or interest in a house which is subject to a control order, to enter any part of the house—
- (a) for the purpose of survey and examination, and
  - (b) for the purpose of carrying out any works.
- (6) If the occupier of any part of a house subject to a control order, after receiving notice of the intended action, prevents any officers, agents, servants or workmen of the local authority from carrying out any works in the house, a magistrates' court may order him to permit to be done on the premises everything which the local authority consider necessary, and if he fails to comply with the order he shall, in respect of each day during which the failure continues, be liable on summary conviction to a fine not exceeding twenty pounds.
- (7) In the application of this section to Scotland—
- (a) in subsection (2), for the reference to an estate in law there shall be substituted a reference to an estate ;
  - (b) in subsection (3), for the reference to section 33 of the Housing Repairs and Rent Act 1954 there shall be substituted a reference to section 25 of the Scottish Act of 1954;
  - (c) in subsection (6), for the words " a magistrates' court" there shall be substituted the words " the sheriff or any two justices of the peace sitting in open court or any magistrate having jurisdiction in the place on proof thereof ".

**76      Modification of control order where dispossessed proprietor resides in part of house**

- (1) A local authority may exclude from the provisions of a control order any part of the house which, when the control order comes into force, is occupied by a person who has an estate or interest in the whole of the house, and, except where the context otherwise requires, references in this Part of this Act to the house do not include references to any part of the house so excluded from the provisions of the control order.
- (2) The rights conferred by subsection (5) of the last foregoing section shall, so far as reasonably required for the purpose of survey and examination of a part of a house subject to a control order, or for the purpose of carrying out any works in that part of a house, be exercisable as respects the part of the house which is not subject to the control order.

**77      Duty of local authority when control order is in force**

- (1) It shall be the duty of the local authority to exercise the powers conferred on them by a control order so as to maintain proper standards of management in the house and to take such action as is needed to remedy all the matters which they would have considered it necessary to remedy by the taking of action under Part II of the Act of 1961 if they had not made a control order.
- (2) It shall be the duty of the local authority to make reasonable provision for insurance of the premises subject to the control order, including any part of the premises which, under the last foregoing section, is excluded from the provisions of the control order, against destruction or damage by fire or other cause, and premiums paid for the

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insurance of the premises shall, for the purposes of this Part of this Act, be treated as expenditure incurred by the local authority in respect of the premises.

## **78 Periodical payments to dispossessed proprietor**

- (1) In respect of the period during which the control order is in force the local authority shall be liable to pay to the dispossessed proprietor compensation at an annual rate of an amount equal to one half of the gross value for rating purposes of the house as shown in the valuation list on the date when the control order comes into force.
- (2) Compensation due under this section shall be payable by quarterly instalments, the first instalment being payable three months after the date when the control order comes into force.
- (3) Compensation under this section is to be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.
- (4) If at the time when compensation under this section accrues due the estate or interest of the dispossessed proprietor is subject to any mortgage or charge, the compensation shall be deemed to be comprised in that mortgage or charge.
- (5) For the purposes of the references in this section to the gross value of the house—
  - (a) where after the date on which the control order comes into force the valuation list is altered so as to vary the gross value of the house, or of the hereditament of which the house forms part, and the alteration has effect from a date not later than the date on which the control order comes into force, compensation shall be payable under this section as if the gross value of the house or hereditament shown in the valuation list on the date when the control order came into force had been the amount of that value shown in the list as altered, and
  - (b) if the house forms part only of a hereditament, such proportion of the gross value shown in the valuation list for that hereditament as may be agreed in writing between the local authority and the person claiming the compensation shall be the gross value of the house, and
  - (c) if the house consists of or forms part of more than one hereditament, the gross value shall be ascertained by determining the gross value of each hereditament or part as if it were a separate house and aggregating the gross values so determined,

and if any dispute arises under paragraph (b) of this subsection, the local authority or the person claiming the compensation may by means of a reference in writing submit the dispute for decision by a valuation officer appointed under the enactments relating to rating.

- (6) In this Part of this Act, " dispossessed proprietor " means the person by whom the rents or other periodical payments to which the local authority become entitled on the coming into force of the control order would have been receivable but for the making of the control order, and the successors in title of that person; and if different persons are the dispossessed proprietors of different parts of the house, compensation payable under this section shall be apportioned between them in such manner as they may agree (or as may, in default of agreement, and on a reference in writing, be determined by a valuation officer appointed under the enactments relating to rating) according to the proportions of the gross value of the house properly attributable to the parts of the house in which they are respectively interested.
- (7) This section shall apply to Scotland subject to the following modifications:—

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- (a) for the references to gross value, to the valuation list and to a hereditament there shall be substituted respectively references to gross annual value, to the valuation roll and to lands and heritages ;
- (b) in subsection (5), paragraph (c) shall not apply, and for the words from " and if any dispute " to the end there shall be substituted the words " and any dispute arising under paragraph (b) of this subsection shall be determined by the sheriff on the application of either party ";
- (c) in subsection (6), for the words " and on a reference in writing be determined by a valuation officer appointed under the enactments relating to rating " there shall be substituted the words " be determined by the sheriff on the application of any of such persons ".

## 79 Scheme listing works involving capital expenditure

- (1) After a control order has been made, the local authority shall prepare a scheme under this section and shall, not later than eight weeks after the date on which the control order comes into force, serve a copy of the scheme on every person who is, to the knowledge of the local authority—
  - (a) a dispossessed proprietor, or
  - (b) an owner or lessee or mortgagee of the house,
 and on any other person on whom the local authority served a copy of the said control order.
- (2) The scheme shall give particulars of all works which in the opinion of the local authority—
  - (a) the local authority would have required to be carried out under Part II of the Act of 1961, or under any other enactment relating to housing or public health, and
  - (b) constitute works involving capital expenditure.
- (3) The scheme shall also—
  - (a) include an estimate of the cost of carrying out the works of which particulars are given in the scheme; and
  - (b) specify what is in the opinion of the local authority the highest number of individuals or households who should, having regard to the considerations set out in section 15(1) of the Act of 1961 (which deals with lighting, ventilation, water supply and other matters) live in the house from time to time, having regard to its existing condition and to its future condition as the works progress which the local authority carry out in the house, and
  - (c) include an estimate of the balances which will from time to time accrue to the local authority out of the net amount of the rent and other payments received by the local authority from persons occupying the house after deducting—
    - (i) compensation payable by the local authority under section 78 and section 81 of this Act, and
    - (ii) all expenditure, other than expenditure of which particulars are given under subsection (2) of this section, incurred by the local authority in respect of the house while the control order is in force, together with the appropriate establishment charges.
- (4) In this Part of this Act references to surpluses on revenue account as settled by the scheme are references to the amount included in the scheme by way of an estimate

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under subsection (3)(c) of this section, subject to any variation of the scheme made by the local authority under the following provisions of this section, or made by the court on an appeal or an application under the following provisions of this Part of this Act.

- (5) The local authority may at any time vary the scheme in such a way as to increase the amount of the surpluses on revenue account as settled by the scheme for all or any periods (including past periods).
- (6) The provisions of this section shall not affect the powers conferred on a local authority by section 74 of this Act and, accordingly, a local authority shall have power to carry out any works in a house which is subject to a control order whether or not particulars of those works have been included in a scheme under this section.

## **80 Recovery of capital expenditure incurred in carrying out - works included in scheme**

- (1) An account shall be kept by the local authority for the period during which the control order is in force showing—
  - (a) the surpluses on revenue account as settled by the scheme, and
  - (b) the expenditure incurred by the local authority in carrying out works of which particulars were given in the scheme.
- (2) Balances shall be struck in the account at half-yearly intervals so as to ascertain the amount of expenditure under subsection (1)(b) of this section which cannot be set off against the said surpluses on revenue account, and (except where the control order is revoked by the county court on an appeal against the control order and the account under this section is no longer needed) the final balance shall be struck at the date when the control order ceases to have effect.
- (3) So far as, at the end of any half-yearly period, expenditure is not set off against the said surpluses on revenue account, the expenditure shall, for the purposes of this section, carry interest at the rate, or the highest rate, for the time being fixed under section 10(6) of the Act of 1957 until it is so set off or until the charge arising under this section is satisfied.

So far as there is any sum out of the surpluses on revenue account not required to meet any expenditure incurred by the local authority, it shall go to meet interest under this subsection.

- (4) Except where the control order is revoked by the county court on an appeal against the control order under the following provisions of this Part of this Act, on and after the time when the control order ceases to have effect (whether on revocation by a court hearing an appeal from the county court or on the termination or revocation of the control order under the following provisions of this Act) the expenditure reasonably incurred by the local authority in carrying out works of which particulars were given in the scheme, together with interest as provided in this section, shall, so far as not set off in accordance with this section against the surpluses on revenue account as settled by the scheme, be a charge on the premises, and on all estates and interests in the premises; and section 76 of this Act shall not apply so as to restrict references to the premises in this subsection to references to the part of the premises to which a control order is applied.
- (5) The local authority shall for the purpose of enforcing the said charge have all the same powers and remedies under the Law of Property Act 1925 and otherwise as if they

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were mortgagees by deed having powers of sale and lease, of accepting surrender of leases and of appointing a receiver.

- (6) The power of appointing a receiver under the last foregoing subsection shall be exercisable at any time after the expiration of one month from the date when the charge takes effect.
- (7) For the purposes of this section references to the provisions of the scheme include references to those provisions as varied under this Part of this Act and if, when the control order ceases to have effect, proceedings under the following provisions of this Part of this Act are pending which may result in a variation of the scheme, those proceedings may be continued until finally determined; and if the charge under this section is enforced before the final determination of those proceedings, the local authority shall be liable to account for any money recovered by enforcing the charge which, having regard to the decision in the proceedings as finally determined, they ought not to have recovered.
- (8) In the application of this section to Scotland—
- (a) in subsection (3), for the words from " or the highest rate " to the end there shall be substituted the words " for the time being fixed under section 8(3) of the Act of 1950 until it is so set off or until a demand for such expenditure is served by the local authority under the said section 8(3), as applied by subsection (8) (c) of this section.

So far as there is any sum out of the surpluses on revenue account not required to meet any expenditure incurred by the local authority, it shall go to meet interest under this subsection. ";

- (b) in subsection (4), the words " (whether on revocation by a court hearing an appeal from the county court or on the termination or revocation of the control order under the following provisions of this Act)" shall be omitted, and for the words from " be a charge " to the end there shall be substituted the words " be recoverable from the dispossessed proprietor ";
- (c) subsections (5) and (6) shall not apply, but 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 from the dispossessed proprietor any expenditure which, by virtue of subsection (4) of this section, is recoverable from him as they apply for the purpose of enabling a local authority to recover the first-mentioned expenses;
- (d) section 16 of the Act of 1950 (appeals) shall apply in relation to a demand by a local authority for the recovery of any such expenditure and in relation to an order made by a local authority with respect to any such expenditure;
- (e) it shall be competent for a local authority to make a charging order in favour of themselves in respect of any such expenditure, 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;
- (f) section 76 of this Act shall not apply so as to restrict the effect of any charging order made by virtue of paragraph (e) of this subsection to the part of the house to which a control order is applied ;



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- (g) in subsection (7), for the words from " and if the charge " to the end there shall be substituted the words " and if any expenditure which, by virtue of subsection (4) of this section, is recoverable from the dispossessed proprietor is recovered from him before the final determination of those proceedings, the local authority shall be liable to account for any money so recovered which, having regard to the decision in the proceedings as finally determined, they ought not to have recovered. ".

## **81 Effect of control order on furnished lettings**

- (1) Subject to this section, if on the date on which the control order comes into force there is any furniture in the house which a resident in the house has the right to use in consideration of periodical payments to the dispossessed proprietor (whether included in the rent payable by the resident or not), the right to possession of the furniture shall, on that date and as against all persons other than the resident, vest in the local authority and remain vested in the local authority while the control order remains in force.
- (2) The local authority may, on the application in writing of the person owning any furniture to which the foregoing subsection applies, by notice served on that person not less than two weeks before the notice takes effect, renounce the right to possession of the furniture as conferred by that subsection.
- (3) In respect of the period during which the local authority have the right to possession of any furniture in pursuance of subsection (1) of this section, the local authority shall be liable to pay to the dispossessed proprietor compensation in respect of the use of any furniture the right to possession of which vests under that subsection at such rate as the parties may agree or as may be determined by the tribunal constituted under section 1 of the Furnished Houses (Rent Control) Act 1946 for the district in which the house is situated.
- (4) If the local authority's right to possession of any furniture conferred by subsection (1) of this section is a right exercisable as against more than one person interested in the furniture, any such person may apply to the county court for an adjustment of the rights and liabilities of those persons as regards the furniture, and the county court may make an order for any such adjustment of rights and liabilities either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by any party to the proceedings to any other party to the proceedings by way of compensation, damages or otherwise) as it thinks just and equitable.
- (5) Subsections (2) and (3) of section 78 of this Act shall apply in relation to compensation under this section as they apply to compensation under that section, and if at the time when compensation under this section accrues due the furniture is subject to any charge, the compensation shall be deemed to be comprised in that charge.
- (6) In this section " furniture " includes fittings and other articles.
- (7) In the application of this section to Scotland—
- (a) in subsection (3), for the reference to the Furnished Houses (Rent Control) Act 1946 there shall be substituted a reference to the Rent of Furnished Houses Control (Scotland) Act 1943, and for the word " district " there shall be substituted the word " area ";
- (b) in subsection (5), the words from " and if " to the end shall be omitted.

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## **82 Appeal against control order**

- (1) At any time after the making of a control order, but not later than the expiration of a period of six weeks from the date on which a copy of the relevant scheme is served in accordance with section 79(1) of this Act, any person having an estate or interest in the house, or, subject to the following provisions of this section, any other person, may appeal to the county court against the control order.
- (2) The court may, before entertaining an appeal by a person who had not, when he brought the appeal, an estate or interest in the house, require the appellant to satisfy the court that he may be prejudiced by the making of the control order.
- (3) The grounds of the appeal may be all or any of the following, that is—
  - (a) that (whether or not the local authority have made an order or issued a notice or direction under any of the sections of the Act of 1961 mentioned in section 73(1)(a) of this Act) the state or condition of the house was not such as to call for the taking of any such action as may be taken under any of those sections;
  - (b) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house ;
  - (c) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local authority to exercise their powers under section 76 of this Act so as to exclude from the provisions of the control order a part of the house (or a greater part of the house than has been excluded);
  - (d) that the control order 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 control order.
- (4) In so far as an appeal under this section is based on the ground that the control order is invalid, the court shall confirm the order unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (5) A control order shall, subject to the right of appeal conferred by this section, be final and conclusive as to any matter which could have been raised on any such appeal.
- (6) Where a control order is revoked on an appeal under this section in Scotland 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 control order has been revoked as aforesaid.

## **83 Appeal against scheme**

- (1) Within six weeks from the date on which a copy of the relevant scheme is served in accordance with section 79(1) of this Act, any person having an estate or interest in the house may appeal to the county court against that scheme on all or any of the following grounds, that is—
  - (a) that having regard to the condition of the house and to the other circumstances, any of the works of which particulars are given in the scheme (whether already carried out or not) are unreasonable in character or extent, or are unnecessary ;
  - (b) that any of the works do not involve expenditure which ought to be regarded as capital expenditure;

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- (c) that the number of individuals or households living in the house, as specified by the local authority in the scheme, is unreasonably low ;
  - (d) that the estimate of the surpluses on revenue account in the scheme is unduly low on account of some assumptions, whether as to rents charged by the local authority or otherwise, made by the local authority in arriving at the estimate as to matters which are within the control of the local authority.
- (2) Without prejudice to the right of appeal conferred by the foregoing subsection, either the local authority or any person having an estate or interest in the house may at any time apply to the county court for a review of the estimate of the surpluses on revenue account in the scheme.
- (3) On an appeal or an application under this section the court may, as it thinks fit, confirm or vary the scheme (but on an application under subsection (2) not so as to affect the provisions of the scheme relating to the works).
- (4) If an appeal has been brought against the control order and the court decide on the appeal to revoke the control order, the court shall not proceed with any appeal against the scheme relating to that control order.
- (5) Proceedings on an appeal against a scheme shall, so far as practicable, be combined with proceedings on any appeal against the control order.
- (6) On an application under subsection (2) of this section the surpluses on revenue account as settled by the scheme may be varied for all or any periods, including past periods, and the county court shall take into consideration whether in the period since the control order came into force the actual balances mentioned in section 79(3)(c) of this Act have exceeded, or been less than, the surpluses on revenue account as settled by the scheme as for the time being in force, and shall also take into consideration whether there has been any change in circumstances such that the number of persons or households who should live in the house, or the net amount of the rents and other payments receivable by the local authority from persons occupying the house, ought to be greater or less than was originally estimated.

#### **84 Revocation of control order by court on appeal**

- (1) This section shall have effect if a control order is revoked by the county court on an appeal against the control order.
- (2) The county court shall take into consideration whether the state or condition of the house is such that any action ought to be taken by the local authority under Part II of the Act of 1961 and shall take all or any of the following steps accordingly, that is—
- (a) approve the making of an order under section 12 of the Act of 1961,
  - (b) approve the giving of a notice under section 14, 15 or 16 of the Act of 1961, or
  - (c) approve the giving of a direction under section 19 of the Act of 1961,
- and no appeal against any order or notice so approved shall lie under section 12(4), 14(5) or 17 of the Act of 1961.
- (3) If the local authority are in the course of carrying out any works in the house which, if a control order were not in force, the local authority would have power to require some other person to carry out under Part II of the Act of 1961, or under any other enactment relating to housing or public health, and on the hearing of the appeal the court is satisfied that the carrying out of the works could not be postponed until after the determination of the appeal by the county court because the works were urgently

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required for the sake of the safety, welfare or health of persons living in the house, or of other persons, the court may suspend the revocation of the control order until the works have been completed.

- (4) In respect of the period from the coming into force of the control order until its revocation by order of the court, the local authority shall, subject to this section, be liable to pay to the dispossessed proprietor the balances which from time to time accrued to the local authority out of the net amount of the rent and other payments received by the local authority while the control order was in force from persons occupying the house after deducting—
  - (i) compensation payable by the local authority under section 78 and section 81 of this Act, and
  - (ii) all expenditure, other than capital expenditure, incurred by the local authority in respect of the house while the control order was in force, together with the appropriate establishment charges.
- (5) For the purpose of enabling the local authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order is revoked, the local authority may on the hearing of the appeal apply to the court for approval of those works on the ground that they were works which, if a control order had not been in force, the local authority could have required some person to carry out under Part II of the Act of 1961, or under any other enactment relating to housing or public health, and that the works could not be postponed until after the determination of the appeal by the county court because the works were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons.
- (6) Any expenditure reasonably incurred by the local authority in carrying out the works approved under the last foregoing subsection—
  - (a) may be deducted by the local authority out of the balances which the local authority are, under subsection (4) of this section, liable to pay to the dispossessed proprietor,
  - (b) so far as not so deducted, shall be a charge on the premises, and on all estates and interests in the premises, and section 76 of this Act shall not apply so as to restrict references to the premises in this subsection to references to the part of the premises to which a control order is applied.
- (7) The charge under the last foregoing subsection shall take effect as from the date when the control order is revoked and the expenditure so charged shall carry interest at the rate provided by section 80(3) of this Act from that date; and subsections (5) and (6) of the said section 80 shall apply to the charge.
- (8) If the court is satisfied that the balances which the local authority are, under subsection (4) of this section, liable to pay to the dispossessed proprietor are unduly low for any reason within the control of the local authority, having regard to the desirability of observing the standards of management contained in regulations made under section 13 of the Act of 1961, and to the other standards which the local authority ought to observe as to the number of persons living in the house and the rents which they ought to charge, the court shall direct that, for the purposes of the local authority's liability to the dispossessed proprietor under this section, the balances under subsection (4) of this section shall be deemed to be such greater sums as the court may direct:

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Provided that the court shall not under this subsection give a direction which will afford to the dispossessed proprietor a sum greater than what he may, in the opinion of the court, have lost by the making of the control order.

- (9) If on an appeal against the control order the county court decides that the control order should be revoked, the county court shall fix the date on which the control order is to be revoked without regard to whether an appeal has been or may be brought against the decision of the county court, but that shall not prevent the local authority from bringing an appeal in accordance with the provisions of section 108 of the County Courts Act 1959.
- (10) If different persons are dispossessed proprietors in relation to different parts of the house, sums payable under this section by the local authority shall be apportioned between them in the manner provided by section 78(6) of this Act.
- (11) In the application of this section to Scotland—
  - (a) in subsection (6)(b), for the words from "shall be a charge " to the end there shall be substituted the words " shall be recoverable from the dispossessed proprietor ";
  - (b) subsection (7) shall not apply, but any expenditure recoverable from the dispossessed proprietor by virtue of subsection (6)(b) of this section shall carry interest at the rate provided by section 80(3) of this Act from the date when the control order is revoked ; and paragraphs (c) to (f) of section 80(8) of this Act shall, with any necessary modifications, apply for the purpose of enabling a local authority to recover any such expenditure as if they were incorporated in this section;
  - (c) subsection (9) shall not apply.

## **85 Revocation of control order by higher tribunal on appeal from county court**

- (1) If on an appeal from the decision of the county court confirming a control order it is determined that the control order should be revoked, but the local authority satisfy the court hearing the appeal from the county court—
  - (a) that they are in the course of carrying out any works in the house which, if a control order were not in force, the local authority would have power to require some person to carry out under Part II of the Act of 1961, or under any other enactment relating to housing or public health, and
  - (b) that the carrying out of the works could not be postponed until the time when the control order could no longer be revoked by order of any court on an appeal against the control order because the works were urgently required for the sake of safety, welfare or health of persons living in the house, or other persons,the court may suspend the revocation of the control order until the works have been completed.
- (2) If on the hearing by a county court of an appeal against a control order the appellant indicates that an appeal may be brought against any decision of the county court confirming the control order, and that any works ought not to be works the cost of which the local authority can recover under section 80 of this Act unless the control order is confirmed on the further appeal, the county court may direct that any such works shall not be works the cost of which may be recovered under section 80 of this Act—

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- (a) if those works are begun before the time when the further appeal is finally determined, and
  - (b) if the control order is not confirmed on that further appeal.
- (3) This section shall not apply to Scotland.

## **86 Termination of control order**

- (1) A control order shall cease to have effect at the expiration of a period of five years beginning with the date on which it came into force.
- (2) The local authority may at any earlier time either on an application under this section, or on their own initiative, by order revoke a control order.
- (3) Not less than twenty-one days before the local authority revoke a control order they shall serve notice of their intention to revoke the order on the persons occupying any part of the house, and on every person who is, to the knowledge of the local authority, an owner or lessee or mortgagee of the house.
- (4) If any person applies to the local authority requesting the local authority to revoke a control order, and giving the grounds on which the application is made, the local authority shall, if they refuse the application, inform the applicant of their decision and of their reasons for rejecting the grounds advanced by the applicant; and if the local authority refuse the application or do not within forty-two days from the making of the application or within such further period as the applicant may in writing allow, inform the applicant of their decision on the application, the applicant may appeal to the county court, and the county court may revoke the order:

Provided that if an appeal has been brought under this section, then, except with the leave of the county court, another appeal shall not be so brought, whether by the same or a different appellant, in respect of the same control order until the expiration of a period of six months beginning with the final determination of the first-mentioned appeal.

- (5) If on an appeal under the last foregoing subsection the local authority represent to the court that revocation of the control order would unreasonably delay completion of any works of which particulars were given in the relevant scheme under this Part of this Act and which the local authority have begun to carry out, the court shall take the representations into account and may, if they think fit, revoke the control order as from the time when the works are completed.
- (6) If an appellant under this section has an estate or interest in the house which, apart from the rights conferred on the local authority by this Part of this Act, and apart from the rights of persons occupying any part of the house, would give him the right to possession of the house, and that estate or interest was, when the control order came into force, subject to a lease for a term of years which has subsequently expired, then if that person satisfies the court that he is in a position, and intends, if the control order is revoked, to demolish or reconstruct the house or to carry out substantial work of construction on the site of the house, the county court shall revoke the control order.
- (7) Where in a case falling under the last foregoing subsection the court is not satisfied as therein mentioned, but would be so satisfied if the date of revocation of the control order were a date later than the date of the hearing of the appeal, the court shall, if the appellant so requires, make an order for the revocation of the control order on that later date.

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- (8) If on an appeal under this section the county court decides to revoke the control order, the court may make an order under which the revocation does not take effect until the time for appealing against the decision of the county court has expired and until any such appeal brought within that time has been finally determined.
- (9) Where—
- (a) the county court on an appeal under this section revokes the control order, or
  - (b) the local authority propose to revoke a control order on their own initiative, and apply to the county court under this subsection,
- the court may take all or any of the following steps, to take effect on the revocation of the control order, that is—
- (a) approve the making of an order under section 12 of the Act of 1961,
  - (b) approve the giving of a notice under section 14, 15 or 16 of the Act of 1961, or
  - (c) approve the giving of a direction under section 19 of the Act of 1961,
- and no appeal against any order or notice so approved shall lie under section 12(4), 14(5) or 17 of the Act of 1961.
- (10) Where the county court on an appeal under this section decide to revoke a control order for a house which by virtue of this Act will be charged with any sum in favour of the local authority the court may make it a condition of the revocation of the control order that the appellant first pays off to the local authority that sum, or such part of that sum as the court may specify.
- (11) in the application of this section to Scotland—
- (a) where a control order is revoked by a local authority under subsection (2), or by the sheriff on an appeal under subsection (4), of this section, the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines the revocation order made by them or, as the case may be, a notice stating that the said order has been revoked by the sheriff as aforesaid ;
  - (b) subsection (8) shall not apply;
  - (c) for subsection (10) there shall be substituted the following subsection:—
- “(10) Where the sheriff on an appeal under this section decides to revoke a control order in respect of a house from the dispossessed proprietor of which any amount will be recoverable by virtue of this Part of this Act, the sheriff may make it a condition of the revocation of the control order that the appellant first pays off to the local authority that amount, or such part of that amount as the sheriff may specify.”

## **87 Effect of cessation of control order**

- (1) Schedule 4 to this Act (which sets out the consequences of a control order ceasing to have effect) shall have effect for the purposes of this Part of this Act.
- (2) Where the county court on an appeal against a control order, or on an appeal under the last foregoing section, revokes a control order the court may authorise the local authority under section 74(2) of this Act to create interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding subsection (3) of the said section 74, are for a fixed term exceeding one month, or are terminable by notice to quit (or an equivalent notice) of more than four weeks.

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## **88 Power of court to modify or determine lease**

- (1) Either the lessor or the lessee under any lease of premises which consist of or comprise a house which is subject to a control order, other than a lease to which section 75(2) of this Act applies, may apply to the county court for an order under this section.
- (2) On any such application, the county court may make an order for the determination of the lease, or for its variation, and, in either case, either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by any party to the proceedings to any other party to the proceedings by way of compensation, damages or otherwise) as the court may think just and equitable to impose, regard being had to the respective rights, obligations and liabilities of the parties under the lease and to the other circumstances of the case.
- (3) If on any such application the court is satisfied—
  - (a) that if the lease is determined and the control order is revoked the lessor will be in a position, and intends, to take all such action to remedy the condition of the house as the local authority consider would have to be taken in pursuance of the powers conferred on them by Part II of the Act of 1961, and
  - (b) that the local authority intend, if the lease is determined, to revoke the control order,
 the county court shall exercise the jurisdiction conferred by this section so as to determine the lease.

## **89 Facilities for dispossessed proprietor and other persons**

- (1) It shall be the duty of the local authority to keep full accounts of their income and expenditure in respect of a house which is subject to a control order, and to afford to the dispossessed proprietor, or any other person having an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (2) While a control order is in force the local authority shall afford to the dispossessed proprietor, or any other person having an estate or interest in the house, any reasonable facilities requested by him for inspecting and examining the house.

## **90 Power to equip house subject to a control order**

The local authority may fit out, furnish and supply a house subject to a control order with such furniture, fittings and conveniences as appear to them to be required.

## **91 Interpretation and construction of Part IV**

- (1) In this Part of this Act, unless the context otherwise requires.—
  - " dispossessed proprietor " has the meaning given by section 78(6) of this Act;
  - " establishment charges " means, in relation to any expenditure incurred by a local authority, the proper addition to be made to that expenditure to take account of overhead expenditure incurred by the local authority, and to allow for a proper return on capital;
  - " licence ", in relation to Scotland, means any right or permission relating to land but not amounting to an estate or interest therein;



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- " person managing a house " has the meaning given by section 13(2) of the Act of 1961;
- " the person having control "—
- (a) in relation to any premises in England and Wales means the person who receives the rack-rent of the premises, whether on his own account or as agent or trustee of any other person, or who would so receive it 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;
- " statutory tenant " means a tenant (as defined in section 12(1)(g) of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920) who retains possession by virtue of the Rent Acts, and not as being entitled to a tenancy, and " statutory tenancy " shall be construed accordingly;
- " surpluses on revenue account as settled by the scheme " has the meaning given by section 79(4) of this Act.
- (2) References in this Part of this Act to the net amount of rents or other payments received by the local authority from persons occupying the house are references to the amount of the rent and other payments received by the local authority from those persons under leases or licences, or in respect of furniture to which section 81(1) of this Act applies, after deducting income tax paid or borne by the local authority in respect of those rents and other payments.
- (3) References in this Part of this Act to expenditure incurred in respect of a house subject to a control order include, in a case where the local authority—
- (a) require persons living in a house to vacate their accommodation for any period while the local authority are carrying out works in the house, and
- (b) defray all or any part of the expenses incurred by or on behalf of those persons removing from and returning to the house, or provide housing accommodation for those persons for any part of that period,
- references to the sums so defrayed by the local authority, and to the net cost of the local authority of so providing housing accommodation.
- (4) For the purposes of this Part of this Act the withdrawal of an appeal shall be deemed the final determination thereof having the like effect as a decision dismissing the appeal.
- (5) 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.