Building Act 1984

1984 CHAPTER 55

PART III

OTHER PROVISIONS ABOUT BUILDINGS

Defective premises, demolition etc.

78 Dangerous building—emergency measures.

(1) If it appears to a local authority that—
   (a) a building or structure, or part of a building or structure, is in such a state, or
       is used to carry such loads, as to be dangerous, and
   (b) immediate action should be taken to remove the danger,
       they may take such steps as may be necessary for that purpose.

(2) Before exercising their powers under this section, the local authority shall, if it is
    reasonably practicable to do so, give notice of their intention to the owner and occupier
    of the building, or of the premises on which the structure is situated.

(3) Subject to this section, the local authority may recover from the owner the expenses
    reasonably incurred by them under this section.

(4) So far as expenses incurred by the local authority under this section consist of expenses
    of fencing off the building or structure, or arranging for it to be watched, the expenses
    shall not be recoverable in respect of any period—
   (a) after the danger has been removed by other steps under this section, or
   (b) after an order made under section 77(1) above for the purpose of its removal
       has been complied with or has been executed as mentioned in subsection (2)
       of that section.

(5) In proceedings to recover expenses under this section, the court shall inquire whether
    the local authority might reasonably have proceeded instead under section 77(1)
    above, and, if the court determines that the local authority might reasonably have
proceeded instead under that subsection, the local authority shall not recover the expenses or any part of them.

(6) Subject to subsection (5) above, in proceedings to recover expenses under this section, the court may—

(a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and

(b) make such order concerning the expenses or their apportionment as appears to the court to be just,

but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless it is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

(7) Where in consequence of the exercise of the powers conferred by this section the owner or occupier of any premises sustains damage, but section 106(1) below does not apply because the owner or occupier has been in default—

(a) the owner or occupier may apply to a magistrates’ court to determine whether the local authority were justified in exercising their powers under this section so as to occasion the damage sustained, and

(b) if the court determines that the local authority were not so justified, the owner or occupier is entitled to compensation, and section 106(2) and (3) below applies in relation to any dispute as regards compensation arising under this subsection.

(8) The proper officer of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) above.

(9) This section does not apply to premises forming part of a mine or quarry within the meaning of the Mines and Quarries Act 1954.
Changes to legislation:
Building Act 1984, Section 78 is up to date with all changes known to be in force on or before 11 October 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
– s. 1(1A)(d) inserted by 2015 c. 7 s. 37(2)
– s. 44(11) inserted by 2004 c. 22 s. 3(8)
– Sch. 1 para. 7A inserted by 2015 c. 7 s. 37(4)