

SCHEDULES

SCHEDULE 2

Section 27

PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS

PART 1

SERVICE OF COPIES OF PROHIBITION ORDERS

Service on owners and occupiers of dwelling or HMO which is not a flat

- 1 (1) This paragraph applies to a prohibition order where the specified premises are a dwelling or HMO which is not a flat.
- (2) The authority must serve copies of the order on every person who, to their knowledge, is—
 - (a) an owner or occupier of the whole or part of the specified premises;
 - (b) authorised to permit persons to occupy the whole or part of those premises; or
 - (c) a mortgagee of the whole or part of those premises.
- (3) The copies required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the order is made.
- (4) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (3) if a copy of the order is fixed to some conspicuous part of the specified premises within the period of seven days mentioned in sub-paragraph (3).

Service on owners and occupiers of building containing flats etc.

- 2 (1) This paragraph applies to a prohibition order where the specified premises consist of or include the whole or any part of a building containing one or more flats or any common parts of such a building.
- (2) The authority must serve copies of the order on every person who, to their knowledge, is—
 - (a) an owner or occupier of the whole or part of the building;
 - (b) authorised to permit persons to occupy the whole or part of the building; or
 - (c) a mortgagee of the whole or part of the building.
- (3) Where the specified premises consist of or include any external common parts of such a building, the authority must, in addition to complying with sub-paragraph (2), serve copies of the order on every person who, to their knowledge, is an owner or mortgagee of the premises in which the common parts are comprised.
- (4) The copies required to be served under sub-paragraph (2) or (3) must be served within the period of seven days beginning with the day on which the order is made.

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- (5) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (4) if a copy of the order is fixed to some conspicuous part of the building within the period of seven days mentioned in sub-paragraph (4).

PART 2

SERVICE OF NOTICES RELATING TO REVOCATION OR VARIATION OF PROHIBITION ORDERS

Notice of revocation or variation

- 3 (1) This paragraph applies where the local housing authority decide to revoke or vary a prohibition order.
- (2) The authority must serve a notice under this paragraph on each of the persons on whom they would be required under Part 1 of this Schedule to serve copies of a prohibition order in respect of the specified premises.
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- (4) Paragraph 1(4) applies in relation to the service of notices on occupiers in accordance with sub-paragraphs (2) and (3) as it applies in relation to the service on them of copies of a prohibition order in accordance with paragraph 1(2)(a) and (3).
- 4 A notice under paragraph 3 must set out—
- (a) the authority's decision to revoke or vary the order;
 - (b) the reasons for the decision and the date on which it was made;
 - (c) if the decision is to vary the order—
 - (i) the right of appeal against the decision under Part 3 of this Schedule; and
 - (ii) the period within which an appeal may be made (see paragraph 10(2)).

Notice of refusal to revoke or vary order

- 5 (1) This paragraph applies where the local housing authority refuse to revoke or vary a prohibition order.
- (2) The authority must serve a notice under this paragraph on each of the persons on whom they would be required under Part 1 of this Schedule to serve copies of a prohibition order in respect of the specified premises.
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- (4) Paragraph 1(4) applies in relation to the service of notices on occupiers in accordance with sub-paragraphs (2) and (3) as it applies in relation to the service on them of copies of a prohibition order in accordance with paragraph 1(2)(a) and (3).
- 6 A notice under paragraph 5 must set out—
- (a) the authority's decision not to revoke or vary the notice;
 - (b) the reasons for the decision and the date on which it was made;

- (c) the right of appeal against the decision under Part 3 of this Schedule; and
- (d) the period within which an appeal may be made (see paragraph 10(2)).

PART 3

APPEALS RELATING TO PROHIBITION ORDERS

Appeal against prohibition order

- 7 (1) A relevant person may appeal to a residential property tribunal against a prohibition order.
- (2) Paragraph 8 sets out a specific ground on which an appeal may be made under this paragraph, but it does not affect the generality of sub-paragraph (1).
- 8 (1) An appeal may be made by a person under paragraph 7 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the order was made.
- (2) The courses of action are—
- (a) serving an improvement notice under section 11 or 12 of this Act;
 - (b) serving a hazard awareness notice under section 28 or 29 of this Act;
 - (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

Appeal against decision relating to revocation or variation of prohibition order

- 9 A relevant person may appeal to a residential property tribunal against—
- (a) a decision by the local housing authority to vary a prohibition order, or
 - (b) a decision by the authority to refuse to revoke or vary a prohibition order.

Time limit for appeal

- 10 (1) Any appeal under paragraph 7 must be made within the period of 28 days beginning with the date specified in the prohibition order as the date on which the order was made.
- (2) Any appeal under paragraph 9 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 3 or 5 as the date on which the decision concerned was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of residential property tribunal on appeal under paragraph 7

- 11 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 7.
- (2) The appeal—
- (a) is to be by way of a re-hearing, but

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- (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may by order confirm, quash or vary the prohibition order.
- (4) Paragraph 12 makes special provision in connection with the ground of appeal set out in paragraph 8.
- 12 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 8.
- (2) When deciding whether one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to a particular hazard, the tribunal must have regard to any guidance given to the local housing authority under section 9.
- (3) Sub-paragraph (4) applies where—
 - (a) an appeal under paragraph 7 is allowed against a prohibition order made in respect of a particular hazard; and
 - (b) the reason, or one of the reasons, for allowing the appeal is that one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to that hazard.
- (4) The tribunal must, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.

Powers of residential property tribunal on appeal under paragraph 9

- 13 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 9.
- (2) Paragraph 11(2) applies to such an appeal as it applies to an appeal under paragraph 7.
- (3) The tribunal may by order confirm, reverse or vary the decision of the local housing authority.
- (4) If the appeal is against a decision of the authority to refuse to revoke a prohibition order, the tribunal may make an order revoking the prohibition order as from a date specified in its order.

“The operative time” for the purposes of section 24(5)

- 14 (1) This paragraph defines “the operative time” for the purposes of section 24(5) (operation of prohibition orders).
- (2) If an appeal is made under paragraph 7 against a prohibition order which is not suspended, and a decision on the appeal is given which confirms the order, “the operative time” is as follows—
 - (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.

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- (3) If an appeal is made under paragraph 7 against a prohibition order which is suspended, and a decision is given on the appeal which confirms the order, “the operative time” is as follows—
- (a) the time that would be the operative time under sub-paragraph (2) if the order were not suspended, or
 - (b) if later, the time when the suspension ends.
- (4) For the purposes of sub-paragraph (2) or (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice, and
 - (b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

“The operative time” for the purposes of section 25(7)

- 15 (1) This paragraph defines “the operative time” for the purposes of section 25(7) (revocation or variation of prohibition orders).
- (2) If no appeal is made under paragraph 9 before the end of the period of 28 days mentioned in paragraph 10(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 10 within that period and a decision is given on the appeal which confirms the variation, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation, and
 - (b) references to a decision which confirms the variation are to a decision which confirms it with or without variation.

Meaning of “relevant person”

- 16 (1) In this Part of this Schedule “relevant person”, in relation to a prohibition order, means a person who is—
- (a) an owner or occupier of the whole or part of the specified premises,
 - (b) authorised to permit persons to occupy the whole or part of those premises, or
 - (c) a mortgagee of the whole or part of those premises.
- (2) If any specified premises are common parts of a building containing one or more flats, then in relation to those specified premises, “relevant person” means every person who is an owner or mortgagee of the premises in which the common parts are comprised.