



Building Act 1984

1984 CHAPTER 55

PART III

OTHER PROVISIONS ABOUT BUILDINGS

Defective premises, demolition etc.

76 Defective premises

- (1) If it appears to a local authority that—
 - (a) any premises are in such a state (in this section referred to as a “defective state”) as to be prejudicial to health or a nuisance, and
 - (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by sections 93 to 96 of the Public Health Act 1936,the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 93 (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects that they intend to remedy.
- (2) Subject to subsection (3) below, the local authority may, after the expiration of nine days after service of a notice under subsection (1) above, execute such works as may be necessary to remedy the defective state, and recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (3) If, within seven days after service of a notice under subsection (1) above, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned, notice unless the person who served the counter-notice—
 - (a) fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or

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- (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) In proceedings to recover expenses under subsection (2) above, the court—
- (a) shall inquire whether the local authority were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure prescribed by sections 93 to 96 of the Public Health Act 1936, and
 - (b) if the defendant proves that he served a counter-notice under subsection (3) above, shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,
- and if the court determines that—
- (i) the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
 - (ii) there was no failure under paragraph (b) of this subsection,
- the local authority shall not recover the expenses or any part of them.
- (5) Subject to subsection (4) above, in proceedings to recover expenses under subsection (2) above, the court may—
- (a) inquire whether the said 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 a person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.
- (6) A local authority shall not serve a notice under subsection (1) above, or proceed with the execution of works in accordance with a notice so served, if the execution of the works would, to their knowledge, be in contravention of a building preservation order under section 29 of the Town and Country Planning Act 1947.
- (7) The power conferred on a local authority by subsection (1) above may be exercised notwithstanding that the local authority might instead have proceeded under section 9 of the Housing Act 1957.

77 **Dangerous building**

- (1) If it appears to a local authority that a building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous, the authority may apply to a magistrates' court, and the court may—
- (a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof—
 - (i) to execute such work as may be necessary to obviate the danger or,
 - (ii) if he so elects, to demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition, or
 - (b) where danger arises from overloading of the building or structure, make an order restricting its use until a magistrates' court, being satisfied that any necessary works have been executed, withdraws or modifies the restriction.

- (2) If the person on whom an order is made under subsection (1)(a) above fails to comply with the order within the time specified, the local authority may—
- (a) execute the order in such manner as they think fit, and
 - (b) recover the expenses reasonably incurred by them in doing so from the person in default,
- and, without prejudice to the right of the authority to exercise those powers, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

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—

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- (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.

79 Ruinous and dilapidated buildings and neglected sites

- (1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof—
- (a) to execute such works of repair or restoration, or
 - (b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,
- as may be necessary in the interests of amenity.
- (2) If it appears to a local authority that—
- (a) rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and
 - (b) by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood,
- the local authority may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) or (2) above, subject to the following modifications—
- (a) section 99(1) requires the notice to indicate the nature of the works of repair or restoration and that of the works of demolition and removal of rubbish or material, and
 - (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of repair or restoration or the works of demolition and removal of rubbish or material.
- (4) This section does not apply to an advertisement as defined in section 290(1) of the Town and Country Planning Act 1971.

80 Notice to local authority of intended demolition

- (1) This section applies to any demolition of the whole or part of a building except—
- (a) a demolition in pursuance of a demolition order made under the Housing Act 1957, and
 - (b) a demolition—

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- (i) of an internal part of a building, where the building is occupied and it is intended that it should continue to be occupied,
 - (ii) of a building that has a cubic content. (as ascertained by external measurement) of not more than 1750 cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage, or
 - (iii) without prejudice to sub-paragraph (ii) above, of an agricultural building (as defined in section 26 of the General Rate Act 1967), unless it is contiguous to another building that is not itself an agricultural building or a building of a kind mentioned in that sub-paragraph.
- (2) No person shall begin a demolition to which this section applies unless—
- (a) he has given the local authority notice of his intention to do so, and
 - (b) either—
 - (i) the local authority have given a notice to him under section 81 below, or
 - (ii) the relevant period (as defined in that section) has expired.
- (3) A notice under subsection (2) above shall specify the building to which it relates and the works of demolition intended to be carried out, and it is the duty of a person giving such a notice to a local authority to send or give a copy of it to—
- (a) the occupier of any building adjacent to the building,
 - (b) the British Gas Corporation, and
 - (c) the Area Electricity Board in whose area the building is situated.
- (4) A person who contravenes subsection (2) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

81 Local authority's power to serve notice about demolition

- (1) A local authority may give a notice under this section to—
- (a) a person on whom a demolition order has been served under the Housing Act 1957,
 - (b) a person who appears to them not to be intending to comply with an order made under section 77 above or a notice given under section 79 above, and
 - (c) a person who appears to them to have begun or to be intending to begin a demolition to which section 80 above otherwise applies.
- (2) Nothing contained in a notice under this section prejudices or affects the operation of any of the relevant statutory provisions, as defined in section 53(1) of the Health and Safety at Work etc. Act 1974; and accordingly, if a requirement of such a notice is inconsistent with a requirement imposed by or under the said Act of 1974, the latter requirement prevails.
- (3) Where—
- (a) a person has given a notice under section 80 above, or
 - (b) the local authority have served a demolition order on a person under the Housing Act 1957,
- a notice under this section may only be given to the person in question within the relevant period.

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- (4) In this section and section 80 above, “the relevant period ” means—
- (a) in a case such as is mentioned in subsection (3)(a) above, six weeks from the giving of the notice under section 80 above, or such longer period as the person who gave that notice may in writing allow, and
 - (b) in a case such as is mentioned in subsection (3)(b) above, seven days after the local authority served a copy of the demolition order in accordance with the Housing Act 1957, or such longer period as the person on whom the copy was served may in writing allow.
- (5) It is the duty of the local authority to send or give a copy of a notice under this section to the owner and occupier of any building adjacent to the building to which the notice relates.
- (6) It is also the duty of the local authority to send or give a copy of a notice under this section—
- (a) if it contains such a requirement as is specified in section 82(1)(h) below, to the statutory undertakers concerned, and
 - (b) if it contains such a requirement as is specified in section 82(1)(i) below—
 - (i) to the fire authority, if they are not themselves the fire authority, and
 - (ii) to the Health and Safety Executive, if the premises are special premises.
- (7) In this section and section 82 below, “special premises ” means premises for which a fire certificate is required by virtue of regulations under the Health and Safety at Work etc. Act 1974.

82 Notices under s. 81

- (1) A notice under section 81(1) above may require the person to whom it is given—
- (a) to shore up any building adjacent to the building to which the notice relates,
 - (b) to weatherproof any surfaces of an adjacent building that are exposed by the demolition,
 - (c) to repair and make good any damage to an adjacent building caused by the demolition or by the negligent act or omission of any person engaged in it,
 - (d) to remove material or rubbish resulting from the demolition and clearance of the site,
 - (e) to disconnect and seal, at such points as the local authority may reasonably require, any sewer or drain in or under the building,
 - (f) to remove any such sewer or drain, and seal any sewer or drain with which the sewer or drain to be removed is connected,
 - (g) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (e) or (f) above,
 - (h) to make arrangements with the relevant statutory undertakers for the disconnection of the supply of gas, electricity and water to the building,
 - (i) to make such arrangements with regard to the burning of structures or materials on the site as may be reasonably required—
 - (i) if the building is or forms part of special premises, by the Health and Safety Executive and the fire authority, and
 - (ii) in any other case, by the fire authority, and

- (j) to take such steps relating to the conditions subject to which the demolition is to be undertaken, and the condition in which the site is to be left on completion of the demolition, as the local authority may consider reasonably necessary for the protection of the public and the preservation of public amenity.
- (2) No one shall be required under paragraph (c), (e) or (f) of subsection (1) above to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to section 101 below, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement.
- (3) Before a person complies with a requirement under paragraph (e), (f) or (g) of subsection (1) above, he shall give to the local authority—
 - (a) at least 48 hours' notice, in the case of a requirement under paragraph (e) or (f),
or
 - (b) at least 24 hours' notice, in the case of a requirement under paragraph (g),and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) This section does not authorise interference with apparatus or works of statutory undertakers authorised by an enactment to carry on an undertaking for the supply of electricity, gas or water.
- (5) Without prejudice to the generality of subsection (4) above, this section does not exempt a person from—
 - (a) the obligation to obtain any consent required under section 67 of Schedule 3 to the Water Act 1945 (interference with valves and other apparatus) or section 68 of that Schedule (alterations to supply pipes and other apparatus),
 - (b) criminal liability under any enactment relating to the supply of gas or electricity, or
 - (c) the requirements of regulations under section 31 of the Gas Act 1972 (public safety).
- (6) Section 99 below applies in relation to a notice given under section 81(1) above.

83 Appeal against notice under s. 81

- (1) Section 102 below applies in relation to a notice given under section 81 above.
- (2) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—
 - (a) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building that is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up,
 - (b) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weatherproofing those surfaces.
- (3) Where the grounds on which an appeal under section 102 below is brought include a ground specified in subsection (2) above—
 - (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and

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- (b) on the hearing of the appeal the court may make such order as it thinks fit—
 - (i) in respect of the payment of, or contribution towards, the cost of the works by any such person, or
 - (ii) as to how any expenses that may be recoverable by the local authority are to be borne between the appellant and any such person.