



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

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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 [^{F1}a magistrates' court][^{F1}the appropriate court or tribunal] 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 [^{F2}or tribunal] determines that the local authority were not so justified, the owner or occupier is entitled to compensation, and section 106(2) ^{F3}... 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 ^{M1}Mines and Quarries Act 1954.

Textual Amendments

- F1** Words in s. 78(7)(a) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(o\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F2** Words in s. 78(7)(b) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 21](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F3** Words in s. 78(7)(b) omitted (28.6.2022 for E., 5.9.2023 for W.) by virtue of [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 51](#); S.I. 2022/561, reg. 3(f), [Sch. para. 27](#); S.I. 2023/914, reg. 2(b)(xiii), [Sch. para. 20](#)

Modifications etc. (not altering text)

- C1** [S. 78](#) applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), [Sch. 2](#). [S. 78](#) applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), [Sch. 2](#).
- C2** [S. 78](#): certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), [Sch.2](#). [S. 78](#): certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), [Sch.2](#).

Marginal Citations

- M1** 1954 c. 70.

Changes to legislation:

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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\(8\)](#)
- s. 79A inserted by [2023 asc 3 Sch. 13 para. 65](#)
- s. 91B inserted by [2022 c. 30 Sch. 5 para. 56](#)
- s. 95(5) inserted by [2022 c. 30 s. 60\(2\)](#)
- s. 105C inserted by [2022 c. 30 s. 58](#)
- s. 116(3)-(6) inserted by [2022 c. 30 s. 45\(2\)\(d\)](#)
- s. 117(A1)(A2) inserted by [2022 c. 30 s. 45\(3\)\(b\)](#)
- s. 118(1A) inserted by [2022 c. 30 s. 45\(4\)\(b\)](#)
- s. 131A inserted by [2022 c. 30 s. 59](#)
- s. 131B inserted by [2022 c. 30 s. 60\(3\)](#)
- Sch. 1 para. 7A inserted by [2015 c. 7 s. 37\(4\)](#)