

# HOUSING ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 - Housing Conditions**

#### *Chapter 4 - Demolition Orders and Slum Clearance Declarations*

#### *Section 46: Demolition orders*

166. [Section 46](#) substitutes a new section 265 of the Housing Act 1985 (power to make a demolition order). The new subsections (1) and (2) provide that if a category 1 hazard exists on any residential premises, making a demolition order is one of the courses of action available to an LHA in discharging its general duty under section 5 to take the most appropriate enforcement action to deal with a category 1 hazard.
167. New subsections (3) and (4) provide a discretionary power for an LHA to make a demolition order if it is satisfied that a category 2 hazard exists on residential premises and if the circumstances of the case are specified or described in an Order made by the Secretary of State or, in relation to Wales, by the National Assembly for Wales.
168. New subsection (5) prevents a demolition order from being made in respect of premises that are the subject of a management order in force under Part 4 of the Act. New subsection (6) prevents a demolition order from being made in respect of a listed building.

#### *Section 47: Clearance areas*

169. [Section 47](#) amends section 289 of the Housing Act 1985 (declaration of clearance area) in order to align it with the hazard assessment and enforcement provisions in Part 1 of the Act. The effect of this realignment is to retain the link between poor housing conditions and enforcement action and it does not introduce factors which fall outside this consideration.
170. New subsection (2) provides that, if a category 1 hazard exists in each of the residential buildings in an area, and if the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, declaring a clearance area is one of the courses of action available to an LHA in discharging its general duty under section 5 to take the most appropriate enforcement action to deal with a category 1 hazard.
171. New subsection (2ZA) provides a discretionary power for an LHA to declare a clearance area if it is satisfied that the residential buildings in the area, as a result of their bad arrangement of the narrowness or bad arrangement of the streets; and any other buildings, are dangerous or harmful to the health or safety of the inhabitants of the area.
172. New subsection (2ZB) provides that, if a category 2 hazard exists in each of the residential buildings in an area, and if the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, the LHA may

*These notes refer to the Housing Act 2004 (c.34) which received Royal Assent on Thursday 18 November 2004*

only declare the area to be a clearance area if the circumstances of the case are specified or described in an Order made by the Secretary of State or, in relation to Wales, by the National Assembly for Wales.

***Section 48: Transfer of jurisdiction in respect of appeals relating to demolition orders etc.***

173. **Section 48** amends a number of provisions in Part 9 of the Housing Act 1985 in order to provide for the transfer of jurisdiction of appeals relating to demolition orders to the Residential Property Tribunal. This ensures that all appeals relating to enforcement options under Part 1 are heard by the Tribunal.