



Housing Act 2004

2004 CHAPTER 34

PART 1

HOUSING CONDITIONS

CHAPTER 1

ENFORCEMENT OF HOUSING STANDARDS: GENERAL

New system for assessing housing conditions

1 New system for assessing housing conditions and enforcing housing standards

- (1) This Part provides—
 - (a) for a new system of assessing the condition of residential premises, and
 - (b) for that system to be used in the enforcement of housing standards in relation to such premises.
- (2) The new system—
 - (a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and
 - (b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).
- (3) The kinds of enforcement action which are to involve the use of the new system are—
 - (a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),
 - (b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and
 - (c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).

Status: This is the original version (as it was originally enacted).

- (4) In this Part “residential premises” means—
- (a) a dwelling;
 - (b) an HMO;
 - (c) unoccupied HMO accommodation;
 - (d) any common parts of a building containing one or more flats.
- (5) In this Part—
- “building containing one or more flats” does not include an HMO;
- “common parts”, in relation to a building containing one or more flats, includes—
- (a) the structure and exterior of the building, and
 - (b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;
- “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;
- “external common parts”, in relation to a building containing one or more flats, means common parts of the building which are outside it;
- “flat” means a separate set of premises (whether or not on the same floor)—
- (a) which forms part of a building,
 - (b) which is constructed or adapted for use for the purposes of a dwelling, and
 - (c) either the whole or a material part of which lies above or below some other part of the building;
- “HMO” means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);
- “unoccupied HMO accommodation” means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.
- (6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).
- (7) The following indicates how this Part applies to flats—
- (a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and
 - (b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).
- (8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

2 **Meaning of “category 1 hazard” and “category 2 hazard”**

- (1) In this Act—

Status: This is the original version (as it was originally enacted).

“category 1 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

“category 2 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and

“hazard” means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)—

“prescribed” means prescribed by regulations made by the appropriate national authority (see section 261(1)); and

“prescribed band” means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section—

“building” includes part of a building;

“harm” includes temporary harm.

(5) In this Act “health” includes mental health.