

SCHEDULES

SCHEDULE 1

PROCEDURE AND APPEALS RELATING TO IMPROVEMENT NOTICES

PART 3

APPEALS RELATING TO IMPROVEMENT NOTICES

Appeal against improvement notice

- 10 (1) The person on whom an improvement notice is served may appeal to a residential property tribunal against the notice.
- (2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).
- 11 (1) An appeal may be made by a person under paragraph 10 on the ground that one or more other persons, as an owner or owners of the specified premises, ought to—
- (a) take the action concerned, or
- (b) pay the whole or part of the cost of taking that action.
- (2) Where the grounds on which an appeal is made under paragraph 10 consist of or include the ground mentioned in sub-paragraph (1), the appellant must serve a copy of his notice of appeal on the other person or persons concerned.
- 12 (1) An appeal may be made by a person under paragraph 10 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 notice was served.
- (2) The courses of action are—
- (a) making a prohibition order under section 20 or 21 of this Act;
- (b) serving a hazard awareness notice under section 28 or 29 of this Act; and
- (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

Appeal against decision relating to variation or revocation of improvement notice

- 13 (1) The relevant person may appeal to a residential property tribunal against—
- (a) a decision by the local housing authority to vary an improvement notice, or
- (b) a decision by the authority to refuse to revoke or vary an improvement notice.
- (2) In sub-paragraph (1) “the relevant person” means—
- (a) in relation to a decision within paragraph (a) of that provision, the person on whom the notice was served;
- (b) in relation to a decision within paragraph (b) of that provision, the person who applied for the revocation or variation.

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Time limit for appeal

- 14 (1) Any appeal under paragraph 10 must be made within the period of 21 days beginning with the date on which the improvement notice was served in accordance with Part 1 of this Schedule.
- (2) Any appeal under paragraph 13 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 6 or 8 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 10

- 15 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 10.
- (2) The appeal—
- (a) is to be by way of a re-hearing, but
 - (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 improvement notice.
- (4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.
- 16 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 11.
- (2) On the hearing of the appeal the tribunal may—
- (a) vary the improvement notice so as to require the action to be taken by any owner mentioned in the notice of appeal in accordance with paragraph 11; or
 - (b) make such order as it considers appropriate with respect to the payment to be made by any such owner to the appellant or, where the action is taken by the local housing authority, to the authority.
- (3) In the exercise of its powers under sub-paragraph (2), the tribunal must take into account, as between the appellant and any such owner—
- (a) their relative interests in the premises concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
 - (b) their relative responsibility for the state of the premises which gives rise to the need for the taking of the action concerned; and
 - (c) the relative degree of benefit to be derived from the taking of the action concerned.
- (4) Sub-paragraph (5) applies where, by virtue of the exercise of the tribunal's powers under sub-paragraph (2), a person other than the appellant is required to take the action specified in an improvement notice.

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- (5) So long as that other person remains an owner of the premises to which the notice relates, he is to be regarded for the purposes of this Part as the person on whom the notice was served (in place of any other person).
- 17 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 12.
- (2) When deciding whether one of the courses of action mentioned in paragraph 12(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 10 is allowed against an improvement notice 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 12(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 13

- 18 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 13.
- (2) Paragraph 15(2) applies to such an appeal as it applies to an appeal under paragraph 10.
- (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 an improvement notice, the tribunal may make an order revoking the notice as from a date specified in the order.

“The operative time” for the purposes of section 15(5)

- 19 (1) This paragraph defines “the operative time” for the purposes of section 15(5) (operation of improvement notices).
- (2) If an appeal is made under paragraph 10 against an improvement notice which is not suspended, and a decision on the appeal is given which confirms the notice, “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 notice.
- (3) If an appeal is made under paragraph 10 against an improvement notice which is suspended, and a decision is given on the appeal which confirms the notice, “the operative time” is as follows—

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- (a) the time that would be the operative time under sub-paragraph (2) if the notice 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 notice are to a decision which confirms it with or without variation.

“The operative time” for the purposes of section 16(7)

- 20 (1) This paragraph defines “the operative time” for the purposes of section 16(7) (postponement of time when a variation of an improvement notice comes into force).
- (2) If no appeal is made under paragraph 13 before the end of the period of 28 days mentioned in paragraph 14(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 13 before the end of 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.