

Changes to legislation: Housing Act 2004, Part 3 is up to date with all changes known to be in force on or before 07 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 2

PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS

PART 3

APPEALS RELATING TO PROHIBITION ORDERS

Modifications etc. (not altering text)

- C1** Sch. 2 Pt. 3 applied by [Housing Act 1985 \(c. 68\)](#), s. 300(5)(b) (as substituted (6.4.2006 (E.) and 16.6.2006 (W.)) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270(4)(5)(f), [Sch. 15 para. 20](#)); S.I. 2006/1060, [art. 2\(1\)\(d\)](#) (with [Sch.](#)); S.I. 2006/1535, [art. 2\(b\)](#) (with [Sch.](#))

Appeal against prohibition order

- 7 (1) A relevant person may appeal to ^{F1}[the appropriate tribunal] against a prohibition order.
- (2) Paragraph 8 sets out a specific ground on which an appeal may be made under this paragraph, but it does not affect the generality of sub-paragraph (1).

Textual Amendments

- F1** Words in Sch. 2 para. 7(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 182\(a\)](#) (with [Sch. 3](#))

Commencement Information

- II** Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

- 8 (1) An appeal may be made by a person under paragraph 7 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 order was made.
- (2) The courses of action are—
- (a) serving an improvement notice under section 11 or 12 of this Act;
 - (b) serving a hazard awareness notice under section 28 or 29 of this Act;
 - (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

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Commencement Information

- I2** Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , [art. 2\(1\)\(a\)](#) (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , [art. 2\(a\)](#) (with [Sch.](#))

Appeal against decision relating to revocation or variation of prohibition order

- 9 A relevant person may appeal to [^{F2}the appropriate tribunal] against—
- (a) a decision by the local housing authority to vary a prohibition order, or
 - (b) a decision by the authority to refuse to revoke or vary a prohibition order.

Textual Amendments

- F2** Words in Sch. 2 para. 9 substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 182\(a\)](#) (with [Sch. 3](#))

Commencement Information

- I3** Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , [art. 2\(1\)\(a\)](#) (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , [art. 2\(a\)](#) (with [Sch.](#))

Time limit for appeal

- 10 (1) Any appeal under paragraph 7 must be made within the period of 28 days beginning with the date specified in the prohibition order as the date on which the order was made.
- (2) Any appeal under paragraph 9 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 3 or 5 as the date on which the decision concerned was made.
- (3) [^{F3}The appropriate 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).

Textual Amendments

- F3** Words in Sch. 2 para. 10(3) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 182\(b\)](#) (with [Sch. 3](#))

Commencement Information

- I4** Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , [art. 2\(1\)\(a\)](#) (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , [art. 2\(a\)](#) (with [Sch.](#))

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Powers of^{F4}... tribunal on appeal under paragraph 7

Textual Amendments

F4 Words in Sch. 2 para. 11 heading omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 182(c)** (with Sch. 3)

- 11 (1) This paragraph applies to an appeal to [^{F5}the appropriate tribunal] under paragraph 7.
- (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 prohibition order.
- (4) Paragraph 12 makes special provision in connection with the ground of appeal set out in paragraph 8.

Textual Amendments

F5 Words in Sch. 2 para. 11(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 182(a)** (with Sch. 3)

Commencement Information

I5 Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with Sch.); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

- 12 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 8.
- (2) When deciding whether one of the courses of action mentioned in paragraph 8(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 7 is allowed against a prohibition order made 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 8(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.

Commencement Information

I6 Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with Sch.); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

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Powers of^{F6}... tribunal on appeal under paragraph 9

Textual Amendments

F6 Words in Sch. 2 para. 13 heading omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 182(c)** (with Sch. 3)

- 13 (1) This paragraph applies to an appeal to [^{F7}the appropriate tribunal] under paragraph 9.
- (2) Paragraph 11(2) applies to such an appeal as it applies to an appeal under paragraph 7.
- (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 a prohibition order, the tribunal may make an order revoking the prohibition order as from a date specified in its order.

Textual Amendments

F7 Words in Sch. 2 para. 13(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 182(a)** (with Sch. 3)

Commencement Information

I7 Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , **art. 2(1)(a)** (with Sch.); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , **art. 2(a)** (with Sch.)

“The operative time” for the purposes of section 24(5)

- 14 (1) This paragraph defines “the operative time” for the purposes of section 24(5) (operation of prohibition orders).
- (2) If an appeal is made under paragraph 7 against a prohibition order which is not suspended, and a decision on the appeal is given which confirms the order, “the operative time” is as follows—
- (a) if the period within which an appeal to the [^{F8}Upper 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 [^{F8}Upper Tribunal] is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.
- (3) If an appeal is made under paragraph 7 against a prohibition order which is suspended, and a decision is given on the appeal which confirms the order, “the operative time” is as follows—
- (a) the time that would be the operative time under sub-paragraph (2) if the order 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

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- (b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

Textual Amendments

- F8** Words in Sch. 2 para. 14(2)(a)(b) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#) , [art. 5\(1\)\(2\)](#) , [Sch. 1 para. 279](#) (with [Sch. 5](#))

Commencement Information

- I8** Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , [art. 2\(1\)\(a\)](#) (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , [art. 2\(a\)](#) (with [Sch.](#))

“The operative time” for the purposes of section 25(7)

- 15 (1) This paragraph defines “the operative time” for the purposes of section 25(7) (revocation or variation of prohibition orders).
- (2) If no appeal is made under paragraph 9 before the end of the period of 28 days mentioned in paragraph 10(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 10 within 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 [^{F9}Upper 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 [^{F9}Upper 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.

Textual Amendments

- F9** Words in Sch. 2 para. 15(3)(a)(b) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#) , [art. 5\(1\)\(2\)](#) , [Sch. 1 para. 279](#) (with [Sch. 5](#))

Commencement Information

- I9** Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , [art. 2\(1\)\(a\)](#) (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , [art. 2\(a\)](#) (with [Sch.](#))

Meaning of “relevant person”

- 16 (1) In this Part of this Schedule “relevant person”, in relation to a prohibition order, means a person who is—

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- (a) an owner or occupier of the whole or part of the specified premises,
 - (b) authorised to permit persons to occupy the whole or part of those premises, or
 - (c) a mortgagee of the whole or part of those premises.
- (2) If any specified premises are common parts of a building containing one or more flats, then in relation to those specified premises, “relevant person” means every person who is an owner or mortgagee of the premises in which the common parts are comprised.

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I10 Sch. 2 wholly in force at 16.6.2006; Sch. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 2 in force for E. at 6.4.2006 by [S.I. 2006/1060](#) , **art. 2(1)(a)** (with [Sch.](#)); Sch. 2 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , **art. 2(a)** (with [Sch.](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)