

Housing Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Office of the Deputy Prime Minister, are published separately as Bill 11 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Prescott has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Housing Bill are compatible with the Convention rights.

Housing Bill

CONTENTS

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

Procedure for assessing housing conditions

- 3 Local housing authorities to review housing conditions in their districts
- 4 Inspections by local housing authorities to see whether category 1 or 2 hazards exist

Enforcement of housing standards

- 5 Category 1 hazards: general duty to take enforcement action
- 6 Category 1 hazards: how duty under section 5 operates in certain cases
- 7 Category 2 hazards: powers to take enforcement action
- 8 Guidance about inspections and enforcement action

CHAPTER 2

IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

Improvement notices

- 9 Improvement notices relating to category 1 hazards: duty of authority to serve notice
- 10 Improvement notices relating to category 2 hazards: power of authority to serve notice
- 11 Contents of improvement notices

- 12 Suspension of improvement notices
- 13 Revocation and variation of improvement notices
- 14 Operation of improvement notices
- 15 Review of suspended improvement notices
- 16 Service of improvement notices etc. and related appeals
- 17 Change in person liable to comply with improvement notice

Prohibition orders

- 18 Prohibition orders relating to category 1 hazards: duty of authority to make order
- 19 Prohibition orders relating to category 2 hazards: power of authority to make order
- 20 Contents of prohibition orders
- 21 Suspension of prohibition orders
- 22 Operation of prohibition orders
- 23 Revocation and variation of prohibition orders
- 24 Review of suspended prohibition orders
- 25 Service of copies of prohibition orders etc. and related appeals

Hazard awareness notices

- 26 Hazard awareness notices relating to category 1 hazards: duty of authority to serve notice
- 27 Hazard awareness notices relating to category 2 hazards: power of authority to serve notice

Enforcement: improvement notices

- 28 Offence of failing to comply with improvement notice
- 29 Enforcement action by local housing authorities

Enforcement: prohibition orders

- 30 Offence of failing to comply with prohibition order etc.
- 31 Recovery of possession of premises in order to comply with order
- 32 Power of court to determine or vary lease

Enforcement: improvement notices and prohibition orders

- 33 Power of court to order occupier or owner to allow action to be taken on premises
- 34 Power of court to authorise action by one owner on behalf of another

Supplementary provisions

- 35 Effect of improvement notices and prohibition orders as local land charges
- 36 Savings for rights arising from breach of covenant etc.
- 37 Effect of Part 4 enforcement action and redevelopment proposals

CHAPTER 3

DEMOLITION ORDERS AND SLUM CLEARANCE DECLARATIONS

Demolition orders

- 38 Demolition orders

Slum clearance declarations

- 39 Clearance areas

CHAPTER 4

GENERAL PROVISIONS RELATING TO ENFORCEMENT ACTION

Recovery of expenses relating to enforcement action

- 40 Power to charge for certain enforcement action
41 Recovery of charge under section 40

Repeal

- 42 Repeal of power to improve existing enforcement procedures

Index

- 43 Index of defined expressions: Part 1

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Introductory

- 44 Licensing of HMOs to which this Part applies

Designation of additional licensing areas

- 45 Designation of areas subject to additional licensing
46 Designations under section 45: further considerations
47 Designation needs confirmation or general approval to be effective
48 Notification requirements relating to designations
49 Duration, review and revocation of designations

HMOs required to be licensed

- 50 Requirement for HMOs to be licensed
51 Temporary exemption from licensing requirement

Grant or refusal of licences

- 52 Applications for licences
53 Grant or refusal of licence

- 54 Tests as to suitability for multiple occupation
- 55 Tests for fitness etc. and satisfactory management arrangements
- 56 Licence conditions
- 57 Licences: general requirements and duration

Variation and revocation of licences

- 58 Variation of licences
- 59 Revocation of licences

Procedure and appeals

- 60 Procedural requirements and appeals against licence decisions

Enforcement

- 61 Offences in relation to licensing of HMOs
- 62 Further sanctions relating to unlicensed HMOs

Supplementary provisions

- 63 Transitional arrangements relating to introduction and termination of licensing
- 64 Meaning of “HMO”
- 65 Index of defined expressions: Part 2

PART 3

SELECTIVE LICENSING OF OTHER RESIDENTIAL ACCOMMODATION

Introductory

- 66 Licensing of houses to which this Part applies

Designation of selective licensing areas

- 67 Designation of selective licensing areas
- 68 Designations under section 67: further considerations
- 69 Designation needs confirmation or general approval to be effective
- 70 Notification requirements relating to designations
- 71 Duration, review and revocation of designations

Houses required to be licensed

- 72 Requirement for Part 3 houses to be licensed
- 73 Temporary exemption from licensing requirement

Grant or refusal of licences

- 74 Applications for licences
- 75 Grant or refusal of licence
- 76 Tests for fitness etc. and satisfactory management arrangements
- 77 Licence conditions
- 78 Licences: general requirements and duration

Variation and revocation of licences

- 79 Variation of licences
- 80 Revocation of licences

Procedure and appeals

- 81 Procedural requirements and appeals against licence decisions

Enforcement

- 82 Offences in relation to licensing of houses under this Part
- 83 Further sanctions relating to unlicensed Part 3 houses

Supplementary provisions

- 84 Meaning of “house” etc.
- 85 Index of defined expressions: Part 3

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

Introductory

- 86 Interim and final management orders: introductory

Interim management orders: making and operation of orders

- 87 Making of interim management orders
- 88 Special interim management orders
- 89 The health and safety condition
- 90 Operation of interim management orders
- 91 Local housing authority’s duties once interim management order in force
- 92 General effect of interim management orders
- 93 General effect of interim management orders: immediate landlords, mortgagees etc.
- 94 Financial arrangements while order is in force

Interim management orders: variation and revocation

- 95 Variation of interim management orders
- 96 Revocation of interim management orders

Final management orders: making and operation of orders

- 97 Making of final management orders
- 98 Operation of final management orders
- 99 Local housing authority’s duties once final management order in force
- 100 General effect of final management orders
- 101 General effect of final management orders: immediate landlords, mortgagees etc.
- 102 Management scheme and accounts

Final management orders: variation and revocation

- 103 Variation of final management orders
- 104 Revocation of final management orders

Interim and final management orders: procedure and appeals

- 105 Procedural requirements and appeals

Interim and final management orders: other general provisions

- 106 Effect of management orders: occupiers
- 107 Effect of management orders: agreements and legal proceedings
- 108 Effect of management orders: furniture
- 109 Management orders: power to supply furniture
- 110 Termination of management orders: financial arrangements
- 111 Termination of management orders: leases, agreements and proceedings
- 112 Management orders: power of entry to carry out work

Overcrowding notices

- 113 Service of overcrowding notices
- 114 Contents of overcrowding notices
- 115 Requirement as to overcrowding generally
- 116 Requirement as to new residents
- 117 Appeals against overcrowding notices
- 118 Revocation and variation of overcrowding notices

Index

- 119 Index of defined expressions: Part 4

PART 5

HOME INFORMATION PACKS

Preliminary

- 120 Meaning of “residential property” and “home information pack”
- 121 Meaning of “on the market” and related expressions
- 122 Acting as estate agent

Responsibility for marketing residential properties

- 123 Responsibility for marketing: general
- 124 Responsibility of person acting as estate agent
- 125 Responsibility of the seller

Duties of a responsible person where a property is on the market

- 126 Application of sections 127 to 129
- 127 Duty to have a home information pack
- 128 Duty to provide copy of home information pack on request
- 129 Duty to ensure authenticity of documents in other situations

Other duties of person acting as estate agent

- 130 Other duties of person acting as estate agent

Exceptions from the duties

- 131 Residential properties not available with vacant possession
132 Power to provide for further exceptions

Contents of home information packs

- 133 Contents of home information packs
134 Home condition reports

Enforcement

- 135 Enforcement authorities
136 Power to require production of home information packs
137 Penalty charge notices
138 Offences relating to enforcement officers
139 Right of private action

Supplementary

- 140 Restrictions on disclosure or use of home information pack
141 Application of Part to sub-divided buildings
142 Office of Fair Trading
143 Grants
144 Interpretation of Part 5
145 Index of defined expressions: Part 5

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

Introductory tenancies

- 146 Extension of introductory tenancies

Right to buy: when exercisable

- 147 Extension of qualifying period for right to buy
148 Exceptions to the right to buy: houses due to be demolished

Right to buy: discounts

- 149 Repayment of discount: periods and amounts applicable
150 Repayment of discount: increase attributable to home improvements to be disregarded
151 Deferred resale agreements

Right to buy: landlord's right of first refusal

- 152 Right of first refusal for landlord etc.

Right to buy: information

- 153 Information to help tenants decide whether to exercise right to buy etc.

Right to buy: termination of rent to mortgage scheme

- 154 Termination of rent to mortgage scheme

Suspension of certain rights in connection with anti-social behaviour

- 155 Secure tenancies: withholding of consent to mutual exchange
 156 Right to buy: suspension of landlord's obligation to complete
 157 Disclosure of information as to orders etc. in respect of anti-social behaviour

CHAPTER 2

DISCOUNTS ON DISPOSALS NOT INVOLVING RIGHT TO BUY

Discounts on disposals by local authorities

- 158 Repayment of discount: periods and amounts applicable
 159 Repayment of discount: increase attributable to home improvements to be disregarded
 160 Deferred resale agreements

Discounts on disposals by registered social landlords

- 161 Repayment of discount: periods and amounts payable
 162 Repayment of discount: deferred resale agreements

Discounts on disposals by housing action trusts

- 163 Repayment of discount: periods and amounts payable
 164 Repayment of discount: deferred resale agreements

CHAPTER 3

MISCELLANEOUS

Succession between same sex partners

- 165 Succession to certain tenancies by same sex partners

Grants for social housing

- 166 Additional power to give grants for social housing

Disabled facilities grant

- 167 Disabled facilities grant: caravans

Annual reports by local housing authorities

- 168 Removal of duty on local housing authorities to send annual reports to tenants etc.

Social Housing Ombudsman for Wales

- 169 Social Housing Ombudsman for Wales

PART 7

SUPPLEMENTARY AND FINAL PROVISIONS

Register of licences and management orders

- 170 Register of licences and management orders

Codes of practice and management regulations relating to HMOs

- 171 Approval of codes of practice with regard to the management of HMOs
172 Management regulations in respect of HMOs

Information provisions

- 173 Power to require documents to be produced
174 Enforcement of powers to obtain information
175 Use of information obtained for certain other statutory purposes
176 False or misleading information

Enforcement

- 177 Powers of entry
178 Warrant to authorise entry
179 Penalty for obstruction
180 Additional notice requirements for protection of owners

Documents

- 181 Power to prescribe forms
182 Power to dispense with notices
183 Service of documents
184 Licences and other documents in electronic form
185 Timing and location of things done electronically
186 Proof of designations

Other supplementary provisions

- 187 Orders and regulations
188 Offences by bodies corporate
189 Power to up-rate level of fines for certain offences
190 Local inquiries

Meaning of "house in multiple occupation"

- 191 Meaning of "house in multiple occupation"

- 192 HMOs: houses and other relevant buildings
- 193 HMOs: certain converted blocks of flats
- 194 HMOs: persons not forming a single household
- 195 HMOs: persons treated as occupying premises as only or main residence

Other general interpretation provisions

- 196 Meaning of “appropriate national authority”, “local housing authority” etc.
- 197 Meaning of “lease”, “tenancy”, “occupier” and “owner” etc.
- 198 Meaning of “person having control” and “person managing” etc.

Final provisions

- 199 Minor and consequential amendments
- 200 Repeals
- 201 Devolution: Wales
- 202 The Isles of Scilly
- 203 Expenses
- 204 Short title, commencement and extent

-
- Schedule 1 – Procedure and appeals relating to improvement notices
 - Part 1 – Service of improvement notices
 - Part 2 – Service of notices relating to revocation or variation of improvement notice
 - Part 3 – Appeals relating to improvement notices
 - Schedule 2 – Procedure and appeals relating to prohibition orders
 - Part 1 – Service of copies of prohibition orders
 - Part 2 – Service of notices relating to revocation or variation of prohibition order
 - Part 3 – Appeals relating to prohibition orders
 - Schedule 3 – Improvement notices: enforcement action by local housing authorities
 - Part 1 – Taking of action by agreement
 - Part 2 – Powers to take action without agreement
 - Part 3 – Recovery of certain expenses
 - Schedule 4 – Licences under Parts 2 and 3: mandatory conditions
 - Schedule 5 – Licences under Parts 2 and 3: procedure and appeals
 - Part 1 – Procedure relating to grant or refusal of licences
 - Part 2 – Procedure relating to variation or revocation of licences
 - Part 3 – Appeals against licence decisions
 - Schedule 6 – Management orders: procedure and appeals
 - Part 1 – Procedure relating to making of management orders
 - Part 2 – Procedure relating to variation or revocation of management orders
 - Part 3 – Appeals against decisions relating to management orders
 - Schedule 7 – Penalty charge notices under section 137
 - Schedule 8 – New Schedule 2A to the Housing Act 1996
 - Schedule 9 – Buildings which are not HMOs (except in Part 1)
 - Schedule 10 – Minor and consequential amendments
 - Schedule 11 – Repeals

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B I L L

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Make provision about housing conditions; to regulate houses in multiple occupation and certain other residential accommodation; to make provision for home information packs in connection with the sale of residential properties; to make provision about secure tenants and the right to buy; to make other provision about housing; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

HOUSING CONDITIONS

CHAPTER 1

ENFORCEMENT OF HOUSING STANDARDS: GENERAL

New system for assessing housing conditions 5

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. 10
- (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). 15
- (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), and
- (b) the existing ones dealt with in Chapter 3 (demolition orders and slum clearance declarations). 5
- (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. 10
- (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 15
- (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; 20
- “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 25
- (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 191 to 195, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 9); 30
- “unoccupied HMO accommodation” means a building or part of a building constructed or adapted for use as a house in multiple accommodation but for the time being either unoccupied or only occupied by persons whose occupation does not satisfy the test in section 191(1)(b) (occupation by persons not forming single household). 35
- (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). 40
- (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). 45

- (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—
- “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 196(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.

Procedure for assessing housing conditions

3 Local housing authorities to review housing conditions in their districts

- (1) At least once in every year a local housing authority must consider the housing conditions in their district with a view to determining what action to take under the provisions mentioned in subsection (2).
- (2) The provisions are—
- (a) the following provisions of this Act—
 - (i) this Part,
 - (ii) Part 2 (licensing of HMOs),
 - (iii) Part 3 (selective licensing of other houses), and
 - (iv) Part 4 (interim and final management orders etc.);
 - (b) Part 9 of the Housing Act 1985 (c. 68) (demolition orders and slum clearance);

-
- (c) Part 7 of the Local Government and Housing Act 1989 (c. 42) (renewal areas); and
- (d) article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860).
- (3) For the purpose of carrying out their duty under subsection (1) a local housing authority and their officers must – 5
- (a) comply with any directions that may be given by the appropriate national authority, and
- (b) keep such records, and supply the appropriate national authority with such information, as that authority may specify. 10
- 4 Inspections by local housing authorities to see whether category 1 or 2 hazards exist**
- (1) If an official complaint about the condition of any residential premises in the district of a local housing authority is made to the proper officer of the authority, and the circumstances complained of indicate – 15
- (a) that any category 1 or category 2 hazard may exist on those premises, or
- (b) that an area in the district should be dealt with as a clearance area, the proper officer must inspect the premises or area.
- (2) In this section “an official complaint” means a complaint in writing made by – 20
- (a) a justice of the peace having jurisdiction in any part of the district, or
- (b) the parish or community council for a parish or community within the district.
- (3) If, in the case of any residential premises in the district of a local housing authority – 25
- (a) no official complaint has been made about the condition of those premises, but
- (b) as the result of a review under section 3 or for any other reason a local housing authority consider that it would be appropriate for an inspection of those premises to be carried out with a view to determining whether any category 1 or category 2 hazard exists on the premises, 30
- the authority must arrange for such an inspection to be carried out.
- (4) An inspection of any premises under subsection (1) or (3) – 35
- (a) is to be carried out in accordance with regulations made by the appropriate national authority; and
- (b) is to extend to so much of the premises as the local housing authority consider appropriate in the circumstances having regard to any applicable provisions of the regulations.
- (5) Regulations under subsection (4) may in particular make provision about – 40
- (a) the manner in which, and the extent to which, premises are to be inspected under subsection (1) or (3), and
- (b) the manner in which the assessment of hazards is to be carried out.
- (6) Where an inspection under subsection (1) or (3) has been carried out and the proper officer of a local housing authority is of the opinion – 45
- (a) that a category 1 hazard exists on any residential premises in the authority’s district, or

- (b) that an area in their district should be dealt with as a clearance area, the officer must, without delay, make a report in writing to the authority which sets out his opinion together with the facts of the case.
- (7) The authority must consider any report made to them under subsection (6) as soon as possible. 5

Enforcement of housing standards

5 Category 1 hazards: general duty to take enforcement action

- (1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard. 10
- (2) In subsection (1) “the appropriate enforcement action” means whichever of the following courses of action is indicated by subsection (3) or (4) –
 - (a) serving an improvement notice under section 9;
 - (b) making a prohibition order under section 18;
 - (c) serving a hazard awareness notice under section 26; 15
 - (d) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
 - (e) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.
- (3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action. 20
- (4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be most appropriate of those available to them.
- (5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard –
 - (a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or 30
 - (b) another such course of action, where the first course of action is that mentioned in subsection (2)(e) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.
- (6) To determine whether a course of action mentioned in any of paragraphs (a) to (e) of subsection (2) is “available” to the authority in relation to the hazard, see the provision mentioned in that paragraph. 35
- (7) Section 6 applies for the purposes of this section.

6 Category 1 hazards: how duty under section 5 operates in certain cases

- (1) This section explains the effect of paragraphs (b), (d) and (e) of subsection (2) of section 5. 40
- (2) In the case of paragraph (b) or (d) of that subsection, the reference to making an order such as is mentioned in that paragraph is to be read as a reference to

making instead a determination under section 300(1) or (2) of the Housing Act 1985 (power to purchase for temporary housing use) in a case where the authority consider the latter course of action to be the better alternative in the circumstances.

- (3) In the case of paragraph (e) of that subsection – 5
- (a) any duty to take the course of action mentioned in that paragraph is subject to the operation of subsections (2B) to (4) and (5B) of section 289 of the Housing Act 1985 (c. 68) (procedural and other restrictions relating to slum clearance declarations); and
 - (b) that paragraph does not apply in a case where the authority have already declared the area in which the premises concerned are situated to be a clearance area in accordance with section 289, but the premises have been excluded by virtue of section 289(2F)(b). 10

7 **Category 2 hazards: powers to take enforcement action**

- (1) The provisions mentioned in subsection (2) confer power on a local housing authority to take particular kinds of enforcement action in cases where they consider that a category 2 hazard exists on residential premises. 15
- (2) The provisions are –
- (a) section 10 (power to serve an improvement notice),
 - (b) section 19 (power to make a prohibition order), 20
 - (c) section 27 (power to serve a hazard awareness notice), and
 - (d) section 265(3) and (4) of the Housing Act 1985 (power to make a demolition order).
- (3) The taking by the authority of one of those kinds of enforcement action in relation to a particular category 2 hazard does not prevent them from taking either – 25
- (a) the same kind of action again, or
 - (b) a different kind of enforcement action,
- in relation to the hazard, where they consider that the action taken by them so far has not proved satisfactory. 30

8 **Guidance about inspections and enforcement action**

- (1) The appropriate national authority may give guidance to local housing authorities about exercising –
- (a) their functions under this Chapter in relation to the inspection of premises and the assessment of hazards, 35
 - (b) their functions under Chapter 2 of this Part in relation to improvement notices, prohibition orders or hazard awareness notices, or
 - (c) their functions under Part 9 of the Housing Act 1985 in relation to demolition orders and slum clearance.
- (2) A local housing authority must have regard to any guidance for the time being given under this section. 40
- (3) The appropriate national authority may give different guidance for different cases or descriptions of case or different purposes (including different guidance to different descriptions of local housing authority or to local housing authorities in different areas). 45

- (4) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.
- (5) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days). 5
- (6) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (5), either House resolves that the guidance or alterations be withdrawn. 10
- (7) Subsection (6) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.
- (8) In calculating the period of 40 days mentioned in subsection (5), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. 15

CHAPTER 2

IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

Improvement notices

- 9 Improvement notices relating to category 1 hazards: duty of authority to serve notice** 20
- (1) If—
- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
- (b) no interim or final management order is in force in relation to the premises under Part 4, 25
- ...serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).
- (2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 11. 30
- (3) The notice may require remedial action to be taken in relation to the following premises— 35
- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;
- (b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts; 40
- (c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

- (4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied – 5
- (a) that the deficiency from which the hazard arises is situated there, and
 - (b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) The remedial action required to be taken by the notice – 10
- (a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but
 - (b) may extend beyond such action.
- (6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats. 15
- (7) The operation of an improvement notice under this section may be suspended in accordance with section 12.
- (8) In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard. 20

10 Improvement notices relating to category 2 hazards: power of authority to serve notice

- (1) If – 25
- (a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and
 - (b) no interim or final management order is in force in relation to the premises under Part 4,
- the authority may serve an improvement notice under this section in respect of the hazard. 30
- (2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 11.
- (3) Subsections (3) and (4) of section 9 apply to an improvement notice under this section as they apply to one under that section. 35
- (4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.
- (5) An improvement notice under this section may be combined in one document with a notice under section 9 where they require remedial action to be taken in relation to the same premises. 40
- (6) The operation of an improvement notice under this section may be suspended in accordance with section 12.

11 Contents of improvement notices

- (1) An improvement notice under section 9 or 10 must comply with the following provisions of this section.
- (2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates –
 - (a) whether the notice is served under section 9 or 10,
 - (b) the nature of the hazard and the residential premises on which it exists,
 - (c) the deficiency giving rise to the hazard,
 - (d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,
 - (e) the date when the remedial action is to be started (see subsection (3)), and
 - (f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.
- (3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.
- (4) The notice must contain information about –
 - (a) the right of appeal against the decision under Part 3 of Schedule 1, and
 - (b) the period within which an appeal may be made.
- (5) In this Part of this Act “specified premises”, in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

12 Suspension of improvement notices

- (1) An improvement notice may provide for the operation of the notice to be suspended until a time, or the occurrence of an event, specified in the notice.
- (2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.
- (3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from the person on whom the notice is served.
- (4) In subsection (3) a “notified breach”, in relation to such an undertaking, means an act or omission by the person on whom the notice is served –
 - (a) which the local housing authority consider to be a breach of the undertaking, and
 - (b) which is notified to that person in accordance with the terms of the undertaking.
- (5) If an improvement notice does provide for the operation of the notice to be suspended under this section –
 - (a) any periods specified in the notice under section 11 are to be fixed by reference to the day when the suspension ends, and
 - (b) in subsection (3) of that section the reference to the 28th day after that on which the notice is served is to be read as referring to the 21st day after that on which the suspension ends.

13 Revocation and variation of improvement notices

- (1) The local housing authority must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with.
- (2) The local housing authority may revoke an improvement notice if –
- (a) in the case of a notice served under section 9, they consider that there are any special circumstances making it appropriate to revoke the notice; or
 - (b) in the case of a notice served under section 10, they consider that it is appropriate to revoke the notice.
- (3) Where an improvement notice relates to a number of hazards –
- (a) subsection (1) is to be read as applying separately in relation to each of those hazards, and
 - (b) if, as a result, the authority are required to revoke only part of the notice, they may vary the remainder as they consider appropriate.
- (4) The local housing authority may vary an improvement notice –
- (a) with the agreement of the person on whom the notice was served, or
 - (b) in the case of a notice whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.
- (5) A revocation under this section comes into force at the time when it is made.
- (6) If it is made with the agreement of the person on whom the improvement notice was served, a variation under this section comes into force at the time when it is made.
- (7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 20 of Schedule 1 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (8) The power to revoke or vary an improvement notice under this section is exercisable by the authority either –
- (a) on an application made by the person on whom the improvement notice was served, or
 - (b) on the authority's own initiative.

14 Operation of improvement notices

- (1) This section deals with the time when an improvement notice becomes operative.
- (2) The general rule is that an improvement notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under Part 1 of Schedule 1 (which is the period for appealing against the notice under Part 3 of that Schedule).
- (3) The general rule is subject to subsection (4) (suspended notices) and subsection (5) (appeals).
- (4) If the notice is suspended under section 12, the notice becomes operative at the time when the suspension ends.
This is subject to subsection (5).

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- (5) If an appeal against the notice is made under Part 3 of Schedule 1, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 19 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends). 5
- (6) If no appeal against an improvement notice is made under that Part of that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.
- 15 Review of suspended improvement notices**
- (1) The local housing authority may at any time review an improvement notice whose operation is suspended. 10
- (2) The local housing authority must review an improvement notice whose operation is suspended not later than one year after the date of service of the notice and at subsequent intervals of not more than one year.
- (3) Copies of the authority’s decision on a review under this section must be served – 15
- (a) on the person on whom the improvement notice was served, and
 - (b) every other person on whom a copy of the notice was required to be served.
- 16 Service of improvement notices etc. and related appeals** 20
- Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.
- 17 Change in person liable to comply with improvement notice**
- (1) This section applies where –
- (a) an improvement notice has been served on any person (“the original recipient”) in respect of any premises, and 25
 - (b) at a later date (“the changeover date”) that person ceases to be a person of the relevant category in respect of the premises.
- (2) In subsection (1) the reference to a person ceasing to be a “person of the relevant category” is a reference to his ceasing to fall within the description of person (such as, for example, the holder of a licence under Part 2 or 3 or the person managing a dwelling) by reference to which the improvement notice was served on him. 30
- (3) As from the changeover date, the liable person in respect of the premises is to be in the same position as if – 35
- (a) the improvement notice had originally been served on him, and
 - (b) he had taken all steps relevant for the purposes of this Part which the original recipient had taken.
- (4) The effect of subsection (3) is that, in particular, any period for compliance with the notice or for bringing any appeal is unaffected. 40
- (5) But where the original recipient has become subject to any liability arising by virtue of this Part before the changeover date, subsection (3) does not have the effect of –

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- (a) relieving him of the liability, or
 - (b) making the new liable person subject to it.
- (6) Subsection (3) applies with any necessary modifications where a person to whom it applies (by virtue of any provision of this section) ceases to be the liable person in respect of the premises. 5
- (7) Unless subsection (8) or (9) applies, the person who is at any time the “liable person” in respect of any premises is the person having control of the premises.
- (8) If—
- (a) the original recipient was served as the person managing the premises, and
 - (b) there is a new person managing the premises as from the changeover date,
- that new person is the “liable person”. 10
- (9) If the original recipient was served as an owner of the premises, the “liable person” is the owner’s successor in title on the changeover date. 15

Prohibition orders

18 Prohibition orders relating to category 1 hazards: duty of authority to make order

- (1) If—
- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
 - (b) no interim or final management order is in force in relation to the premises under Part 4,
- making a prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action). 20 25
- (2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsections (3) and (4) and section 20. 30
- (3) The order may prohibit use of the following premises—
- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may prohibit use of the dwelling or HMO;
 - (b) if those premises are one or more flats, it may prohibit use of the building containing the flat or flats (or any part of the building) or any external common parts;
 - (c) if those premises are the common parts of a building containing one or more flats, it may prohibit use of the building (or any part of the building) or any external common parts.
- Paragraphs (b) and (c) are subject to subsection (4). 35 40
- (4) The notice may not, by virtue of subsection (3)(b) or (c), prohibit use of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—
- (a) that the deficiency from which the hazard arises is situated there, and
- 45

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- (b) that it is necessary for such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.
- (5) A prohibition order under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats. 5
- (6) The operation of a prohibition order under this section may be suspended in accordance with section 21.
- 19 Prohibition orders relating to category 2 hazards: power of authority to make order** 10
- (1) If—
- (a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and
- (b) no interim or final management order is in force in relation to the premises under Part 4, 15
- the authority may make a prohibition order under this section in respect of the hazard.
- (2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsection (3) and section 20. 20
- (3) Subsections (3) and (4) of section 18 apply to a prohibition order under this section as they apply to one under that section.
- (4) A prohibition order under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats. 25
- (5) A prohibition order under this section may be combined in one document with an order under section 18 where they impose prohibitions on the use of the same premises or on the use of premises in the same building containing one or more flats.
- (6) The operation of a prohibition order under this section may be suspended in accordance with section 21. 30
- 20 Contents of prohibition orders**
- (1) A prohibition order under section 18 or 19 must comply with the following provisions of this section.
- (2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates— 35
- (a) whether the order is made under section 18 or 19,
- (b) the nature of the hazard concerned and the residential premises on which it exists,
- (c) the deficiency giving rise to the hazard, 40
- (d) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4)), and

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- (e) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 23.
- (3) The order may impose such prohibition or prohibitions on the use of any premises as – 5
- (a) comply with section 18(3) and (4), and
- (b) the local housing authority consider appropriate in view of the hazard or hazards in respect of which the order is made.
- (4) Any such prohibition may prohibit use of any specified premises, or of any part of those premises, either – 10
- (a) for all purposes, or
- (b) for any particular purpose,
- except (in either case) to the extent to which any use of the premises or part is approved by the authority.
- (5) A prohibition imposed by virtue of subsection (4)(b) may, in particular, relate to – 15
- (a) occupation of the premises or part by more than a particular number of households or persons; or
- (b) occupation of the premises or part by particular descriptions of persons. 20
- (6) The order must also contain information about –
- (a) the right under Part 3 of Schedule 1 to appeal against the decision to make the order, and
- (b) the period within which an appeal may be made,
- and specify the date on which the order is made. 25
- (7) Any approval of the authority for the purposes of subsection (4) must not be unreasonably withheld.
- (8) If the authority do refuse to give any such approval, they must notify the person applying for the approval of – 30
- (a) their decision,
- (b) the reasons for it and the date on which it was made,
- (c) the right to appeal against the decision under subsection (9), and
- (d) the period within which an appeal may be made,
- within the period of seven days beginning with the day on which the decision was made. 35
- (9) The person applying for the approval may appeal to a county court against the decision within the period of 28 days beginning with the date specified in the notice as the date on which it was made.
- (10) In this Part of this Act “specified premises”, in relation to a prohibition order, means premises specified in the order, in accordance with subsection (2)(d), as premises in relation to which prohibitions are imposed by the order. 40

21 Suspension of prohibition orders

- (1) A prohibition order may provide for the operation of the order to be suspended until a time, or the occurrence of an event, specified in the order.

- (2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.
- (3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from a person on whom a copy of the order is served. 5
- (4) In subsection (2) a “notified breach”, in relation to such an undertaking, means an act or omission by such a person –
- (a) which the local housing authority consider to be a breach of the undertaking, and
 - (b) which is notified to that person in accordance with the terms of the undertaking. 10

22 Operation of prohibition orders

- (1) This section deals with the time when a prohibition order becomes operative.
- (2) The general rule is that a prohibition order becomes operative at the end of the period of 28 days beginning with the date specified in the notice as the date on which it is made. 15
- (3) The general rule is subject to subsection (4) (suspended orders) and subsection (5) (appeals).
- (4) If the order is suspended under section 21, the order becomes operative at the time when the suspension ends. 20
This is subject to subsection (5).
- (5) If an appeal is brought against the order under Part 3 of Schedule 2, the order does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 14 of that Schedule (time when order is confirmed on appeal, period for further appeal expires or suspension ends). 25
- (6) If no appeal against a prohibition order is made under that Part of that Schedule within the period for appealing against it, the order is final and conclusive as to matters which could have been raised on an appeal.
- (7) Sections 584A and 584B of the Housing Act 1985 (c. 68) provide for the payment of compensation where certain prohibition orders become operative, and for the repayment of such compensation in certain circumstances. 30

23 Revocation and variation of prohibition orders

- (1) The local housing authority must revoke a prohibition order if at any time they are satisfied that the hazard in respect of which the order was made does not then exist on the residential premises specified in the order in accordance with section 20(2)(b). 35
- (2) The local housing authority may revoke a prohibition order if –
- (a) in the case of an order made under section 18, they consider that there are any special circumstances making it appropriate to revoke the order; or 40
 - (b) in the case of an order made under section 19, they consider that it is appropriate to do so.

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- (3) Where a prohibition order relates to a number of hazards –
- (a) subsection (1) is to be read as applying separately in relation to each of those hazards, and
 - (b) if, as a result, the authority are required to revoke only part of the order, they may vary the remainder as they consider appropriate. 5
- (4) The local housing authority may vary a prohibition order –
- (a) with the agreement of every person on whom copies of the notice were required to be served under Part 1 of Schedule 2, or
 - (b) in the case of an order whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end. 10
- (5) A revocation under this section comes into force at the time when it is made.
- (6) If it is made with the agreement of every person within subsection (4)(a), a variation under this section comes into force at the time when it is made.
- (7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 15 of Schedule 2 (time when period for appealing expires without an appeal being made or when decision to revoke or vary is confirmed on appeal). 15
- (8) The power to revoke or vary a prohibition order under this section is exercisable by the authority either – 20
- (a) on an application made by a person on whom a copy of the order was required to be served under Part 1 of Schedule 2, or
 - (b) on the authority’s own initiative.
- 24 Review of suspended prohibition orders 25**
- (1) The local housing authority may at any time review a prohibition order whose operation is suspended.
- (2) The local housing authority must review a prohibition order whose operation is suspended not later than one year after the date on which the order was made and at subsequent intervals of not more than one year. 30
- (3) Copies of the authority’s decision on a review under this section must be served on every person on whom a copy of the order was required to be served under Part 1 of Schedule 2.
- 25 Service of copies of prohibition orders etc. and related appeals 35**
- Schedule 2 (which deals with the service of copies of prohibition orders, and notices relating to their revocation or variation, and with related appeals) has effect.
- Hazard awareness notices*
- 26 Hazard awareness notices relating to category 1 hazards: duty of authority to serve notice 40**
- (1) If –

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- (a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
- (b) no interim or final management order is in force in relation to the premises under Part 4,
- 5 serving a hazard awareness notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).
- (2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 1 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served. 10
- (3) The notice may be served in respect of the following premises –
- (a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may be served in respect of the dwelling or HMO; 15
- (b) if those premises are one or more flats, it may be served in respect of the building containing the flat or flats (or any part of the building) or any external common parts;
- (c) if those premises are the common parts of a building containing one or more flats, it may be served in respect of the building (or any part of the building) or any external common parts. 20
- Paragraphs (b) and (c) are subject to subsection (4).
- (4) The notice may not, by virtue of subsection (3)(b) or (c), be served in respect of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied – 25
- (a) that the deficiency from which the hazard arises is situated there, and
- (b) that it is desirable for the notice to be so served in the interests of the health or safety of any actual or potential occupiers of one or more of the flats. 30
- (5) A notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.
- (6) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates – 35
- (a) the nature of the hazard and the residential premises on which it exists,
- (b) the deficiency giving rise to the hazard,
- (c) the premises on which the deficiency exists,
- (d) the authority’s reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and 40
- (e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.
- (7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice. 45

- (8) For that purpose, any reference in that Part of that Schedule to “the specified premises” is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (6)(c).
- 27 Hazard awareness notices relating to category 2 hazards: power of authority to serve notice** 5
- (1) If—
- (a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and
 - (b) no interim or final management order is in force in relation to the premises under Part 4,
- the authority may serve a hazard awareness notice under this section in respect of the hazard. 10
- (2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 2 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served. 15
- (3) Subsections (3) and (4) of section 26 apply to a hazard awareness notice under this section as they apply to one under that section.
- (4) A notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats. 20
- (5) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—
- (a) the nature of the hazard and the residential premises on which it exists,
 - (b) the deficiency giving rise to the hazard,
 - (c) the premises on which the deficiency exists, 25
 - (d) the authority’s reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and
 - (e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard. 30
- (6) A notice under this section may be combined in one document with a notice under section 26 where they are served in respect of the same premises.
- (7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice. 35
- (8) For that purpose, any reference in that Part of that Schedule to “the specified premises” is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (5)(c).
- Enforcement: improvement notices* 40
- 28 Offence of failing to comply with improvement notice**
- (1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.

- (2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice –
- (a) (if no appeal is brought against the notice) not later than the date specified under section 11(2)(e) and within the period specified under section 11(2)(f); 5
 - (b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the court determining the appeal; and
 - (c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 11(2)(f). 10
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 15
- (4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.
- (5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired. 20
- (6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.

29 Enforcement action by local housing authorities

Schedule 3 (which enables enforcement action in respect of an improvement notice to be taken by local housing authorities either with or without agreement and which provides for the recovery of related expenses) has effect. 25

Enforcement: prohibition orders

30 Offence of failing to comply with prohibition order etc.

- (1) A person commits an offence if, knowing that a prohibition order has become operative in relation to any specified premises, he – 30
- (a) uses the premises in contravention of the order, or
 - (b) permits the premises to be so used.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction – 35
- (a) to a fine not exceeding level 5 on the standard scale, and
 - (b) to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for using the premises, or (as the case may be) permitting them to be used, in contravention of the order. 40

31 Recovery of possession of premises in order to comply with order

Nothing in—

(a) the Rent Act 1977 (c. 42) or the Rent (Agriculture) Act 1976 (c. 80), or

(b) Part 1 of the Housing Act 1988 (c. 50),

prevents possession being obtained by the owner of any specified premises in relation to which a prohibition order is operative if possession of the premises is necessary for the purpose of complying with the order. 5

32 Power of court to determine or vary lease

(1) Subsection (2) applies where—

(a) a prohibition order has become operative, and 10

(b) the whole or part of any specified premises form the whole or part of the subject matter of a lease.

(2) The lessor or the lessee may apply to a county court for an order determining or varying the lease.

(3) On such an application the court may make an order determining or varying the lease, if it considers it appropriate to do so. 15

(4) Before making such an order, the court must give any sub-lessee an opportunity of being heard.

(5) An order under this section may be unconditional or subject to such terms and conditions as the court considers appropriate. 20

(6) The conditions may, in particular, include conditions about the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

(7) In deciding what is appropriate for the purposes of this section, the court must have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case. 25

(8) In this section “lessor” and “lessee” include a person deriving title under a lessor or lessee.

Enforcement: improvement notices and prohibition orders

33 Power of court to order occupier or owner to allow action to be taken on premises 30

(1) This section applies where an improvement notice or prohibition order has become operative.

(2) If the occupier of any specified premises—

(a) has received reasonable notice of any intended action in relation to the premises, but 35

(b) is preventing a relevant person, or any representative of a relevant person or of the local housing authority, from taking that action in relation to the premises,

a magistrates’ court may order the occupier to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken. 40

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- (3) If a relevant person –
- (a) has received reasonable notice of any intended action in relation to any specified premises, but
 - (b) is preventing a representative of the local housing authority from taking that action in relation to the premises,
- a magistrates’ court may order the relevant person to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken. 5
- (4) A person who fails to comply with an order of the court under this section commits an offence. 10
- (5) In proceedings for an offence under subsection (4) it is a defence that the person had a reasonable excuse for failing to comply with the order.
- (6) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding £20 in respect of each day or part of a day during which the failure continues. 15
- (7) In this section “intended action”, in relation to any specified premises, means –
- (a) where an improvement notice has become operative, any action which the person on whom that notice has been served is required by the notice to take in relation to the premises and which –
 - (a) (in the context of subsection (2)) is proposed to be taken by or on behalf of that person or on behalf of the local housing authority in pursuance of Schedule 3, or
 - (b) (in the context of subsection (3)) is proposed to be taken on behalf of the local housing authority in pursuance of Schedule 3;
 - (b) where a prohibition order has become operative, any action which is proposed to be taken and which either is necessary for the purpose of giving effect to the order or is remedial action specified in the order in accordance with section 20(2)(e). 20
- (8) In this section –
- “relevant person”, in relation to any premises, means a person who is an owner of the premises, a person having control of or managing the premises, or the holder of any licence under Part 2 or 3 in respect of the premises; 30
 - “representative” in relation to a relevant person or a local housing authority, means any officer, employee, agent or contractor of that person or authority. 35

34 Power of court to authorise action by one owner on behalf of another

- (1) Where an improvement notice or prohibition order has become operative, an owner of any specified premises may apply to a magistrates’ court for an order under subsection (2). 40
- (2) A magistrates’ court may, on an application under subsection (1), make an order enabling the applicant –
- (a) immediately to enter on the premises, and
 - (b) to take any required action within a period fixed by the order.
- (3) In this section “required action” means – 45

-
- (a) in the case of an improvement notice, any remedial action which is required to be taken by the notice;
 - (b) in the case of a prohibition order, any action necessary for the purpose of complying with the order or any remedial action specified in the order in accordance with section 20(2)(e). 5
- (4) No order may be made under subsection (2) unless the court is satisfied that the interests of the applicant will be prejudiced as a result of a failure by another person to take any required action.
 - (5) No order may be made under subsection (2) unless notice of the application has been given to the local housing authority. 10
 - (6) If it considers that it is appropriate to do so, the court may make an order in favour of any other owner of the premises which is similar to the order that it is making in relation to the premises under subsection (2).

Supplementary provisions

- 35 Effect of improvement notices and prohibition orders as local land charges 15**
- (1) An improvement notice or a prohibition order under this Chapter is a local land charge if subsection (2), (3) or (4) applies.
 - (2) This subsection applies if the notice or order has become operative.
 - (3) This subsection applies if –
 - (a) the notice or order is suspended under section 12 or 21, and 20
 - (b) the period for appealing against it under Part 3 of Schedule 1 or 2 has expired without an appeal having been brought.
 - (4) This subsection applies if –
 - (a) the notice or order is suspended under section 12 or 21,
 - (b) an appeal has been brought against it under Part 3 of Schedule 1 or 2, 25
and
 - (c) were it not suspended –
 - (i) the notice would have become operative under section 14(5) by virtue of paragraph 19(2) of Schedule 1 (improvement notices: confirmation on appeal or expiry of period for further appeal), 30
or
 - (ii) the order would have become operative under section 22(5) by virtue of paragraph 14(2) of Schedule 2 (prohibition orders: confirmation on appeal or expiry of period for further appeal).
- 36 Savings for rights arising from breach of covenant etc. 35**
- (1) Nothing in this Chapter affects any remedy of an owner for breach of any covenant or contract entered into by a tenant in connection with any premises which are specified premises in relation to an improvement notice or prohibition order.
 - (2) If an owner is obliged to take possession of any premises in order to comply with an improvement notice or prohibition order, the taking of possession does not affect his right to take advantage of any such breach which occurred before he took possession. 40

- (3) No action taken under this Chapter affects any remedy available to the tenant of any premises against his landlord (whether at common law or otherwise).

37 Effect of Part 4 enforcement action and redevelopment proposals

- (1) Subsection (2) applies if –
- (a) an improvement notice or prohibition order has been served or made under this Chapter, and 5
 - (b) an interim or final management order under Part 4 comes into force in relation to the specified premises.
- (2) The improvement notice or prohibition order –
- (a) if operative at the time when the interim or final management order comes into force, ceases to have effect at that time, and 10
 - (b) otherwise is to be treated as from that time as if it had not been served or made.
- (3) Subsection (2)(a) does not affect any right acquired or liability (civil or criminal) incurred before the improvement notice or prohibition order ceases to have effect. 15
- (4) Subsection (5) applies where, under section 308 of the Housing Act 1985 (c. 68) (owner’s re-development proposals), the local housing authority have approved proposals for the re-development of land.
- (5) No action is to be taken under this Chapter in relation to the land if, and so long as, the re-development is being proceeded with (subject to any variation or extension approved by the authority) – 20
- (a) in accordance with the proposals; and
 - (b) within the time limits specified by the local housing authority.

CHAPTER 3

25

DEMOLITION ORDERS AND SLUM CLEARANCE DECLARATIONS

Demolition orders

38 Demolition orders

For section 265 of the Housing Act 1985 substitute –

“265 Demolition orders

30

- (1) If –
- (a) the local housing authority are satisfied that a category 1 hazard exists in a dwelling or HMO which is not a flat, and
 - (b) this subsection is not disapplied by subsection (5),
- making a demolition order in respect of the dwelling or HMO is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action). 35
- (2) If, in the case of any building containing one or more flats –

-
- (a) the local housing authority are satisfied that a category 1 hazard exists in one or more of the flats contained in the building or in any common parts of the building, and
- (b) this subsection is not disapplied by subsection (5),
 making a demolition order in respect of the building is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004. 5
- (3) The local housing authority may make a demolition order in respect of a dwelling or HMO which is not a flat if –
- (a) they are satisfied that a category 2 hazard exists in the dwelling or HMO, 10
- (b) this subsection is not disapplied by subsection (5), and
- (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.
- (4) The local housing authority may make a demolition order in respect of any building containing one or more flats if – 15
- (a) they are satisfied that a category 2 hazard exists in one or more of the flats contained in the building or in any common parts of the building,
- (b) this subsection is not disapplied by subsection (5), and 20
- (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.
- (5) None of subsections (1) to (4) applies if an interim or final management order under Part 4 is in force in relation to the premises concerned.
- (6) This section also has effect subject to section 304(1) (no demolition order to be made in respect of listed building). 25
- (7) In this section “HMO” means house in multiple occupation.
- (8) An order made under subsection (3) or (4) –
- (a) may make different provision for different cases or descriptions of case (including different provision for different areas); 30
- (b) may contain such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate; and
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 35
- (9) Sections 584A and 584B provide for the payment of compensation where demolition orders are made under this section, and for the repayment of such compensation in certain circumstances.”

Slum clearance declarations 40

39 Clearance areas

In section 289 of the Housing Act 1985 (c. 68) (declaration of clearance area) for subsections (2) and (2A) substitute –

- “(2) If the local housing authority are satisfied, in relation to any area –

- (a) that each of the residential buildings in the area contains a category 1 hazard, and
- (b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area,
- declaring the area to be a clearance area is a course of action available to the authority in relation to the hazard or hazards for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action). 5
- (2ZA) The local housing authority may declare an area to be a clearance area if they are satisfied that— 10
- (a) the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets; and
- (b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area. 15
- (2ZB) The local housing authority may declare an area to be a clearance area if they are satisfied that—
- (a) that each of the residential buildings in the area contains a category 2 hazard, 20
- (b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, and
- (c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.
- Subsection (8) of section 265 applies in relation to an order under this subsection as it applies in relation to an order under subsection (3) or (4) of that section. 25
- (2ZC) In this section “residential buildings” means buildings which are dwellings or houses in multiple occupation or contain one or more flats. This is subject to subsection (2ZD). 30
- (2ZD) For the purposes of subsection (2) or (2ZB)—
- (a) subsection (2ZC) applies as if “two or more flats” were substituted for “one or more flats”; and
- (b) a residential building containing two or more flats is only to be treated as containing a category 1 or 2 hazard if two or more of the flats within it contain such a hazard. 35
- (2ZE) Subsections (2) to (2ZB) are subject to subsections (2B) to (4) and (5B).”

CHAPTER 4

GENERAL PROVISIONS RELATING TO ENFORCEMENT ACTION

Recovery of expenses relating to enforcement action 40

40 Power to charge for certain enforcement action

- (1) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in—

-
- (a) serving an improvement notice under section 9 or 10;
 (b) making a prohibition order under section 18 or 19;
 (c) serving a hazard awareness notice under section 26 or 27;
 (d) making a demolition order under section 265 of the Housing Act 1985 (c. 68). 5
- (2) The expenses are, in the case of the service of an improvement notice or a hazard awareness notice, the expenses incurred in—
 (a) determining whether to serve the notice,
 (b) identifying any action to be specified in the notice, and
 (c) serving the notice. 10
- (3) The expenses are, in the case of a prohibition order under section 18 or 19 of this Act or a demolition order under section 265 of the Housing Act 1985, the expenses incurred in—
 (a) determining whether to make the order, and
 (b) serving copies of the order on persons as owners of premises. 15
- (4) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering expenses incurred by them in—
 (a) carrying out any review under section 15 or 24, or
 (b) serving copies of the authority’s decision on such a review.
- (5) The amount of the charge may not exceed such amount as is specified by order of the appropriate national authority. 20
- (6) Where a court allows an appeal against the underlying notice or order mentioned in subsection (1), it may make such order as it considers appropriate reducing, quashing, or requiring the repayment of, any charge under this section made in respect of the notice or order. 25
- 41 Recovery of charge under section 40**
- (1) This section relates to the recovery by a local housing authority of a charge made by them under section 40.
- (2) In the case of—
 (a) an improvement notice under section 9 or 10, or
 (b) a hazard awareness notice under section 26 or 27,
 the charge may be recovered from the person on whom the notice is served. 30
- (3) In the case of—
 (a) a prohibition order under section 18 or 19, or
 (b) a demolition order under section 265 of the Housing Act 1985,
 the charge may be recovered from any person on whom a copy of the order is served as an owner of the premises. 35
- (4) A demand for payment of the charge must be served on the person from whom the authority seek to recover it.
- (5) The demand becomes operative, if no appeal is brought against the underlying notice or order, at the end of the period of 21 days beginning with the date of service of the demand. 40
- (6) The sum recoverable by the authority is, until recovered, a charge on the premises concerned.

- (7) The charge takes effect when the demand becomes operative.
- (8) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver. 5
- (9) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.
- (10) The appropriate national authority may by regulations prescribe the form of, and the particulars to be contained in, a demand for payment of any charge under section 40. 10

Repeal

42 Repeal of power to improve existing enforcement procedures

Omit section 86 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (power to improve existing enforcement procedures in relation to unfitness for human habitation etc.). 15

Index

43 Index of defined expressions: Part 1

The following table shows where expressions used in this Part are defined or otherwise explained. 20

<i>Expression</i>	<i>Provision of this Act</i>	
Appropriate national authority	Section 196(1)	
Building containing one or more flats	Section 1(5)	
Category 1 hazard	Section 2(1)	
Category 2 hazard	Section 2(1)	25
Common parts	Section 1(5)	
Compliance with improvement notice	Section 28(2)	
District of local housing authority	Section 196(6)	
Dwelling	Section 1(5), (6)	
External common parts	Section 1(5)	30
Flat	Section 1(5) to (7)	
Hazard	Section 2(1)	
Hazard awareness notice	Section 26(2) or 27(2)	

<i>Expression</i>	<i>Provision of this Act</i>	
Health	Section 2(5)	
HMO	Section 1(5), (6) (and see also section 1(8))	
Improvement notice	Section 9(2) or 10(2)	5
Lease, lessee etc.	Section 197(1) to (4)	
Local housing authority	Section 196(2) to (5)	
Occupier (and related expressions)	Section 197(6)	
Owner	Section 197(7)	
Person having control	Section 198(1) and (2)	10
Person managing	Section 198(3) and (4)	
Prohibition order	Section 18(2) or 19(2)	
Remedial action	Section 9(8)	
Residential premises	Section 1(4)	
Specified premises, in relation to an improvement notice	Section 11(5)	15
Specified premises, in relation to a prohibition order	Section 20(10)	
Tenancy, tenant	Section 197(1) to (5)	
Unoccupied HMO accommodation	Section 1(5) (and see also section 1(8))	20

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Introductory

- 44 Licensing of HMOs to which this Part applies** 25
- (1) This Part provides for HMOs to be licensed by local housing authorities where –
- they are HMOs to which this Part applies (see subsection (2)), and
 - they are required to be licensed under this Part (see section 50(1)).
- (2) This Part applies to the following HMOs in the case of each local housing authority –
- any HMO in the authority’s district which falls within any prescribed description of HMO, and
- 30

- (b) if an area is for the time being designated by the authority under section 45 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation.
- (3) The appropriate national authority may by order prescribe descriptions of HMOs for the purposes of subsection (2)(a). 5
- (4) The power conferred by subsection (3) may be exercised in such a way that this Part applies to all HMOs in the district of a local housing authority.
- (5) Every local housing authority have the following general duties –
 - (a) to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part; 10
 - (b) to ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time; and
 - (c) to satisfy themselves, as soon as is reasonably practicable, that there are no Part 1 functions that ought to be exercised by them in relation to the premises in respect of which such applications are made. 15
- (6) For the purposes of subsection (5)(c) –
 - (a) “Part 1 function” means any duty under section 5 to take any course of action to which that section applies or any power to take any course of action to which section 7 applies; and 20
 - (b) the authority may take such steps as they consider appropriate (whether or not involving an inspection) to comply with their duty under subsection (5)(c) in relation to each of the premises in question, but they must in any event comply with it within the period of 5 years beginning with the date of the application for a licence. 25

Designation of additional licensing areas

45 Designation of areas subject to additional licensing

- (1) A local housing authority may designate either –
 - (a) the area of their district, or 30
 - (b) an area in their district,as subject to additional licensing in relation to a description of HMOs specified in the designation, if the requirements of this section are met.
- (2) The authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public. 35
- (3) Before making a designation the authority must –
 - (a) take reasonable steps to consult persons who are likely to be affected by the designation; and 40
 - (b) consider any representations made in accordance with the consultation and not withdrawn.
- (4) The power to make a designation under this section may be exercised in such a way that this Part applies to all HMOs in the area in question.

- (5) In forming an opinion as to the matter mentioned in subsection (2), the authority must have regard to any information regarding the extent to which any codes of practice approved under section 171 have been complied with by persons managing HMOs in the area in question.
- (6) Section 46 applies for the purposes of this section. 5

46 Designations under section 45: further considerations

- (1) This section applies to the power of a local housing authority to make designations under section 45.
- (2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy. 10
- (3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both –
- (a) as regards combining licensing under this Part with other courses of action available to them, and 15
- (b) as regards combining such licensing with measures taken by other persons.
- (4) The authority must not make a particular designation under section 45 unless –
- (a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question, and 20
- (b) they consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well). 25
- (5) In this Act “anti-social behaviour” means conduct on the part of occupiers of, or visitors to, residential premises –
- (a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the locality of such premises, or 30
- (b) which involves or is likely to involve the use of such premises for illegal purposes.

47 Designation needs confirmation or general approval to be effective

- (1) A designation of an area as subject to additional licensing cannot come into force unless – 35
- (a) it has been confirmed by the appropriate national authority; or
- (b) it falls within a description of designations in relation to which that authority has given a general approval in accordance with subsection (6).
- (2) The appropriate national authority may either confirm, or refuse to confirm, a designation as it considers appropriate. 40
- (3) If the appropriate national authority confirms a designation, the designation comes into force on the date specified for this purpose by that authority.

- (4) That date must be no earlier than three months after the date on which the designation is confirmed.
- (5) A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.
- (6) Accordingly a general approval may (in particular) be given in relation to— 5
 - (a) designations made by a specified local housing authority;
 - (b) designations made by a local housing authority falling within a specified description of such authorities;
 - (c) designations relating to HMOs of a specified description.“Specified” means specified by the appropriate national authority in the approval. 10
- (7) If, by virtue of a general approval, a designation does not need to be confirmed before it comes into force, the designation comes into force on the date specified for this purpose in the designation.
- (8) That date must be no earlier than three months after the date on which the designation is made. 15

48 Notification requirements relating to designations

- (1) This section applies to a designation—
 - (a) when it is confirmed under section 47, or
 - (b) (if it is not required to be so confirmed) when it is made by the local housing authority. 20
- (2) As soon as the designation is confirmed or made, the authority must publish in the prescribed manner a notice stating—
 - (a) that the designation has been made,
 - (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 47 applied to it (giving details of the approval in question), 25
 - (c) the date on which the designation is to come into force, and
 - (d) any other information which may be prescribed.
- (3) After publication of a notice under subsection (1), and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements—
 - (a) copies of the designation, and
 - (b) such information relating to the designation as is prescribed. 30
- (4) In this section “prescribed” means prescribed by regulations made by the appropriate national authority. 35

49 Duration, review and revocation of designations

- (1) Unless previously revoked under subsection (4), a designation ceases to have effect at the time that is specified for this purpose in the designation.
- (2) That time must be no later than five years after the date on which the designation comes into force. 40
- (3) A local housing authority must from time to time review the operation of any designation made by them.

- (4) If following a review they consider it appropriate to do so, the authority may revoke the designation.
- (5) If they do revoke the designation, the designation ceases to have effect at the time that is specified by the authority for this purpose.
- (6) On revoking a designation the authority must publish notice of the revocation in such manner as is prescribed by regulations made by the appropriate national authority. 5

HMOs required to be licensed

50 Requirement for HMOs to be licensed

- (1) Every HMO to which this Part applies must be licensed under this Part unless – 10
- (a) a temporary exemption notice is in force in relation to it under section 51, or
- (b) an interim or final management order is in force in relation to it under Part 4. 15
- (2) A licence under this Part is a licence authorising occupation of the house concerned by not more than a maximum number of households or persons specified in the licence.
- (3) Sections 52 to 56 deal with applications for licences, the granting or refusal of licences and the imposition of licence conditions. 20
- (4) The local housing authority must take all reasonable steps to secure that applications for licences are made to them in respect of HMOs in their area which are required to be licensed under this Part but are not.
- (5) The appropriate national authority may by regulations provide for – 25
- (a) any provision of this Part, or
- (b) section 198(1) or (2) (in its operation for the purposes of any such provision),
- to have effect in relation to a section 193 HMO with such modifications as are prescribed by the regulations.
- A “section 193 HMO” is an HMO which is a converted block of flats to which section 193 applies. 30
- (6) In this Part (unless the context otherwise requires) –
- (a) references to a licence are to a licence under this Part,
- (b) references to a licence holder are to be read accordingly, and
- (c) references to an HMO being (or not being) licensed under this Part are to its being (or not being) an HMO in respect of which a licence is in force under this Part. 35

51 Temporary exemption from licensing requirement

- (1) This section applies where a person having control of or managing an HMO which is required to be licensed under this Part (see section 50(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed. 40

- (2) The authority may, if they think fit, serve on that person a notice under this section (“a temporary exemption notice”) in respect of the house.
- (3) If a temporary exemption notice is served under this section, the house is (in accordance with sections 50(1) and 72(1)) not required to be licensed either under this Part or under Part 3 during the period for which the notice is in force. 5
- (4) A temporary exemption notice under this section is in force –
- (a) for the period of 3 months beginning with the date on which it is served, or
 - (b) (in the case of a notice served by virtue of subsection (5)) for the period of 3 months after the date when the first notice ceases to be in force. 10
- (5) If the authority –
- (a) receive a further notification under subsection (1), and
 - (b) consider that there are exceptional circumstances that justify the service of a second temporary exemption notice in respect of the house that would take effect from the end of the period of 3 months applying to the first notice, 15
- the authority may serve a second such notice on the person having control of or managing the house (but no further notice may be served by virtue of this subsection). 20
- (6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of –
- (a) the decision,
 - (b) the reasons for it and the date on which it was made, 25
 - (c) the right to appeal against the decision under subsection (7), and
 - (d) the period within which an appeal may be made under that subsection.
- (7) The person concerned may appeal to a county court against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made. 30
- (8) Such an 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.
- Paragraph (a) applies despite any provision of Civil Procedure Rules. 35
- (9) The court –
- (a) may confirm or reverse the decision of the authority, and
 - (b) if it reverses the decision, must direct the authority to serve a temporary exemption notice that comes into force on such date as the court directs.

Grant or refusal of licences 40

52 Applications for licences

- (1) An application for a licence must be made to the local housing authority.
- (2) The application must be made in accordance with such requirements as the authority may specify.

-
- (3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.
- (4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).
- (5) The appropriate national authority may by regulations make provision about the making of applications under this section. 5
- (6) Such regulations may, in particular –
- (a) specify the manner and form in which applications are to be made;
 - (b) require the applicant to give copies of the application, or information about it, to particular persons; 10
 - (c) specify the information which is to be supplied in connection with applications;
 - (d) specify the maximum fees which are to be charged (whether by specifying amounts or methods for calculating amounts);
 - (e) specify cases in which no fees are to be charged or fees are to be refunded. 15
- (7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account –
- (a) all costs incurred by the authority in carrying out their functions under this Part, and 20
 - (b) all costs incurred by them in carrying out their functions under Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Part).
- 53 Grant or refusal of licence**
- (1) Where an application in respect of an HMO is made to the local housing authority under section 52, the authority may either – 25
- (a) grant a licence in accordance with subsection (2), or
 - (b) refuse to grant a licence.
- (2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either – 30
- (a) to the applicant, or
 - (b) to some other person, if both he and the applicant agree.
- (3) The matters are –
- (a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in subsection (4) or that it can be made so suitable by the imposition of conditions under section 56; 35
 - (b) that the proposed licence holder –
 - (i) is a fit and proper person to be the licence holder, and
 - (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder; 40
 - (c) that the proposed manager of the house is either –
 - (i) the person having control of the house, or
 - (ii) a person who is an agent or employee of the person having control of the house; 45

- (d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
 - (e) that the proposed management arrangements for the house are otherwise satisfactory.
 - (4) The maximum number of households or persons referred to in subsection (3)(a) is—
 - (a) the maximum number specified in the application, or
 - (b) some other maximum number decided by the authority.
 - (5) Sections 54 and 55 apply for the purposes of this section.
- 54 Tests as to suitability for multiple occupation** 10
- (1) The local housing authority cannot be satisfied for the purposes of section 53(3)(a) that the house is reasonably suitable for occupation by a particular maximum number of households or persons if they consider that it fails to meet prescribed standards for occupation by that number of households or persons. 15
 - (2) But the authority may decide that the house is not reasonably suitable for occupation by a particular maximum number of households or persons even if it does meet prescribed standards for occupation by that number of households or persons.
 - (3) In this section “prescribed standards” means standards prescribed by regulations made by the appropriate national authority. 20
 - (4) The standards that may be so prescribed include—
 - (a) standards as to the number, type and quality of—
 - (i) bathrooms, toilets, washbasins and showers,
 - (ii) areas for food storage, preparation and cooking, and 25
 - (iii) laundry facilities,which should be available in particular circumstances; and
 - (b) standards as to the number, type and quality of other facilities or equipment which should be available in particular circumstances.
- 55 Tests for fitness etc. and satisfactory management arrangements** 30
- (1) In deciding for the purposes of section 53(3)(b) or (d) whether a person (“P”) is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).
 - (2) Evidence is within this subsection if it shows that P has—
 - (a) committed any offence involving fraud or other dishonesty, or violence or drugs;
 - (b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; 40
 - (c) contravened any provision of the law relating to housing or of landlord and tenant law; or
 - (d) acted otherwise than in accordance with any applicable code of practice approved under section 171.

- (3) Evidence is within this subsection if—
- (a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and
 - (b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house. 5
- (4) For the purposes of section 53(3)(b) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it. 10
- (5) In deciding for the purposes of section 53(3)(e) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6). 15
- (6) The considerations are—
- (a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;
 - (b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and 20
 - (c) whether any proposed management structures and funding arrangements are suitable.
- (7) Any reference in section 53(3)(b)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force. 25

56 Licence conditions

- (1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following— 30
- (a) the management, use and occupation of the house concerned, and
 - (b) its condition and contents.
- (2) Those conditions may, in particular, include (so far as appropriate in the circumstances)— 35
- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
 - (b) conditions requiring steps to be taken with a view to controlling the behaviour of persons occupying or visiting the house;
 - (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 54; 40
 - (d) conditions requiring such facilities and equipment to be kept in repair and proper working order;
 - (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence; 45

- (f) conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 171.
- (3) A licence must include the conditions required by Schedule 4.
- (4) As regards the relationship between the authority’s power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 (“Part 1 functions”) –
 - (a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions; 10
 - (b) this does not, however, prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment within subsection (2)(c) above, even if the same result could be achieved by the exercise of Part 1 functions; 15
 - (c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.
- (5) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations. 20
- (6) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house. 25

57 Licences: general requirements and duration

- (1) A licence may not relate to more than one HMO.
- (2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.
- (3) A licence – 30
 - (a) comes into force at the time that is specified in or determined under the licence for this purpose, and
 - (b) unless previously terminated by subsection (7) or revoked under section 59, continues in force for the period that is so specified or determined. 35
- (4) That period must not end more than 5 years after –
 - (a) the date on which the licence was granted, or
 - (b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.
- (5) Subsection (3)(b) applies even if, at any time during that period, the HMO concerned subsequently ceases to be one to which this Part applies. 40
- (6) A licence may not be transferred to another person.
- (7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

- (8) However, during the period of 3 months beginning with the date of the licence holder’s death, the house is to be treated for the purposes of this Part and Part 3 as if on that date a temporary exemption notice had been served in respect of the house under section 51.
- (9) If, at any time during that period (“the initial period”), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 51. 5
- (10) Subsections (6) to (8) of section 51 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice. 10

Variation and revocation of licences

58 Variation of licences

- (1) The local housing authority may vary a licence – 15
- (a) if they do so with the agreement of the licence holder, or
- (b) if they consider that there has been a change of circumstances since the time when the licence was granted.
- For this purpose “change of circumstances” includes any discovery of new information. 20
- (2) Subsection (3) applies where the authority –
- (a) are considering whether to vary a licence under subsection (1)(b); and
- (b) are considering –
- (i) what number of households or persons is appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or 25
- (ii) the standards applicable to occupation by a particular number of households or persons.
- (3) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to vary the licence as were applicable at the time when it was granted. 30
- This is subject to subsection (4).
- (4) If the standards –
- (a) prescribed under section 54, and
- (b) applicable at the time when the licence was granted, 35
- have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.
- (5) A variation made with the agreement of the licence holder takes effect at the time when it is made.
- (6) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal). 40

- (7) The power to vary a licence under this section is exercisable by the authority either –
- (a) on an application made by the licence holder or a relevant person, or
 - (b) on the authority’s own initiative.
- (8) In subsection (7) “relevant person” means any person (other than the licence holder) –
- (a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
 - (c) on whom any restriction or obligation is imposed by the licence in accordance with section 56(5).

59 Revocation of licences

- (1) The local housing authority may revoke a licence –
- (a) if they do so with the agreement of the licence holder;
 - (b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holder or other person);
 - (c) in any of the cases mentioned in subsection (3) (circumstances relating to HMO concerned); or
 - (d) in any other circumstances prescribed by regulations made by the appropriate national authority.
- (2) The cases referred to in subsection (1)(b) are as follows –
- (a) where the authority consider that the licence holder or any other person has failed to comply with a condition of the licence;
 - (b) where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and
 - (c) where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.
- (3) The cases referred to in subsection (1)(c) are as follows –
- (a) where the HMO to which the licence relates ceases to be an HMO to which this Part applies; and
 - (b) where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the HMO, refuse to grant a new licence to the licence holder on similar terms in respect of it.
- (4) Subsection (5) applies where the authority are considering whether to revoke a licence by virtue of subsection (3)(b) on the grounds that the HMO is not reasonably suitable for the number of households or persons specified in the licence as the maximum number authorised occupy the house.
- (5) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to revoke the licence as were applicable at the time when it was granted.
This is subject to subsection (6).
- (6) If the standards –
- (a) prescribed under section 54, and

- (b) applicable at the time when the licence was granted, have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.
- (7) A revocation made with the agreement of the licence holder takes effect at the time when it is made. 5
- (8) Otherwise, a revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (9) The power to revoke a licence under this section is exercisable by the authority either – 10
- (a) on an application made by the licence holder or a relevant person, or
 - (b) on the authority’s own initiative.
- (10) In subsection (8) “relevant person” means any person (other than the licence holder) – 15
- (a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) who is a person managing or having control of that house (and does not fall within paragraph (a)), or
 - (c) on whom any restriction or obligation is imposed by the licence in accordance with section 56(5). 20

Procedure and appeals

60 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part. 25

Enforcement

61 Offences in relation to licensing of HMOs

- (1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 50(1)) but is not so licensed. 30
- (2) A person commits an offence if –
- (a) he is a person having control of or managing an HMO which is licensed under this Part,
 - (b) he permits another person to occupy the house, and 35
 - (c) the other person’s occupation results in the house being occupied by more households or persons than is authorised by the licence.
- (3) A person commits an offence if –
- (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 56(5), and 40
 - (b) he fails to comply with any condition of the licence.

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- (4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time –
- (a) a notification had been duly given in respect of the house under section 51(1), or
 - (b) an application for a licence had been duly made in respect of the house under section 52,
- and that notification or application was still effective (see subsection (8)).
- (5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse –
- (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
 - (b) for permitting the person to occupy the house, or
 - (c) for failing to comply with the condition,
- as the case may be.
- (6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding £20,000.
- (7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) For the purposes of subsection (4) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either –
- (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
 - (b) if they have decided not to do so, it is still possible for the person concerned to have that decision reversed on an appeal to a county court or to the Court of Appeal.

62 Further sanctions relating to unlicensed HMOs

- (1) Subsection (2) applies to any period during which an offence is being committed under section 61(1) in respect of an HMO that is required to be licensed under this Part but is not so licensed.
- (2) In respect of any such period –
- (a) no rent or licence fee that would (apart from this section) be payable by a person who occupies the house under a tenancy or licence is to be so payable, and
 - (b) no other compensation that would (apart from this section) be payable for use or occupation of the house is to be so payable.
- (3) Where any amount within subsection (2) is paid despite not being payable, the amount is recoverable by the person by whom it is paid.
- (4) Except to the extent provided by subsection (2), nothing in this Part affects the validity of any tenancy or licence under which a person occupies an HMO during a period to which that subsection applies.
- (5) Subsection (2) does not affect the operation of any statutory provision relating to the protection of occupiers of premises that operates by reference to the amount of rent or other sums payable by them.

Supplementary provisions

- 63 Transitional arrangements relating to introduction and termination of licensing**
- (1) Subsection (2) applies where –
- (a) an order under section 44(3) which prescribes a particular description of HMOs comes into force; or 5
 - (b) a designation under section 45 comes into force in relation to HMOs of a particular description.
- (2) This Part applies in relation to the occupation by persons or households of such HMOs on or after the coming into force of the order or designation even if their occupation began before, or in pursuance of a contract made before, it came into force. 10
This is subject to subsections (3) to (5).
- (3) Subsection (4) applies where –
- (a) an HMO which is licensed under this Part, or a part of such an HMO, is occupied by more households or persons than the number permitted by the licence; and 15
 - (b) the occupation of all or any of those households or persons began before, or in pursuance of a contract made before, the licence came into force. 20
- (4) In proceedings against a person for an offence under section 61(2) it is a defence that at the material time he was taking all reasonable steps to try to reduce the number of households or persons occupying the house to the number permitted by the licence.
- (5) Subsection (4) does not apply if the licence came into force immediately after a previous licence in respect of the same HMO unless the occupation in question began before, or in pursuance of a contract made before, the coming into force of the original licence. 25
- (6) An order under section 204 may make provision as regards the licensing under this Part of HMOs – 30
- (a) which are registered immediately before the appointed day under a scheme to which section 347 (schemes containing control provisions) or 348B (schemes containing special control provisions) of the Housing Act 1985 (c. 68) applies, or
 - (b) in respect of which applications for registration under such a scheme are then pending. 35
- (7) In subsection (6) “the appointed day” means the day appointed for the coming into force of section 50.
- 64 Meaning of “HMO”**
- In this Part – 40
- (a) “HMO” means a house in multiple occupation as defined by sections 191 to 195, and
 - (b) references to an HMO include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it). 45

65 Index of defined expressions: Part 2

The following table shows where expressions used in this Part are defined or otherwise explained.

<i>Expression</i>	<i>Provision of this Act</i>	
Appropriate national authority	Section 196(1)	5
Category 1 hazard	Section 2(1)	
Category 2 hazard	Section 2(1)	
District of local housing authority	Section 196(6)	
HMO	Section 64	
HMO to which this Part applies	Section 44(2)	10
Licence and licence holder	Section 50(6)	
Licence (to occupy premises)	Section 197(9)	
Local housing authority	Section 196(2) to (5)	
Occupier (and related expressions)	Section 197(6)	
Person having control	Section 198(1) and (2) (and see also section 55(7))	15
Person having estate or interest	Section 197(8)	
Person managing	Section 198(3)	
Person involved in management	Section 198(5)	20
Tenant	Section 197(1) to (5)	

PART 3

SELECTIVE LICENSING OF OTHER RESIDENTIAL ACCOMMODATION

Introductory

66 Licensing of houses to which this Part applies 25

- (1) This Part provides for houses to be licensed by local housing authorities where –
 - (a) they are houses to which this Part applies (see subsection (2)), and
 - (b) they are required to be licensed under this Part (see section 72(1)).
- (2) This Part applies to a house if – 30
 - (a) it is in an area that is for the time being designated under section 67 as subject to selective licensing, and
 - (b) the whole of it is occupied either –

- (i) under a single tenancy or licence that is not an exempt tenancy or licence under subsection (3) or (4), or
 - (ii) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under subsection (3) or (4). 5
- (3) A tenancy or licence is an exempt tenancy or licence if it is granted by a body which is registered as a social landlord under Part 1 of the Housing Act 1996 (c. 52).
- (4) In addition, the appropriate national authority may by order provide for descriptions of tenancies or licences specified in the order to be exempt tenancies or licences. 10
- (5) Every local housing authority have the following general duties –
 - (a) to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part; and 15
 - (b) to ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time.

Designation of selective licensing areas

- 67 Designation of selective licensing areas** 20
- (1) A local housing authority may designate either –
 - (a) the area of their district, or
 - (b) an area in their district,
 as subject to selective licensing, if the requirements of subsections (2) and (9) are met. 25
 - (2) The authority must consider that –
 - (a) the first or second set of general conditions mentioned in subsection (3) or (6), or
 - (b) any conditions specified in an order under subsection (7) as an additional set of conditions, 30
 are satisfied in relation to the area.
 - (3) The first set of general conditions are –
 - (a) that the area is, or is likely to become, an area of low housing demand; and
 - (b) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to the improvement of the social or economic conditions in the area. 35
 - (4) In deciding whether an area is, or is likely to become, an area of low housing demand a local housing authority must take into account (among other matters) – 40
 - (a) the value of residential premises in the area, in comparison to the value of similar premises in other areas which the authority consider to be comparable (whether in terms of types of housing, local amenities, availability of transport or otherwise); 45

- (b) the turnover of occupiers of residential premises;
 - (c) the number of residential premises which are available to buy or rent and the length of time for which they remain unoccupied.
- (5) The appropriate national authority may by order amend subsection (4) by adding new matters to those for the time being mentioned in that subsection. 5
- (6) The second set of general conditions are –
 - (a) that the area is experiencing a significant and persistent problem caused by anti-social behaviour;
 - (b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and 10
 - (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem. 15

“Private sector landlord” does not include a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52).
- (7) The appropriate national authority may by order provide for any conditions specified in the order to apply as an additional set of conditions for the purposes of subsection (2). 20
- (8) The conditions that may be specified include, in particular, conditions intended to permit a local housing authority to make a designation for the purpose of dealing with one or more specified problems affecting persons occupying Part 3 houses in the area.
“Specified” means specified in an order under subsection (7). 25
- (9) Before making a designation the local housing authority must –
 - (a) take reasonable steps to consult persons who are likely to be affected by the designation; and
 - (b) consider any representations made in accordance with the consultation and not withdrawn. 30
- (10) Section 68 applies for the purposes of this section.

68 Designations under section 67: further considerations

- (1) This section applies to the power of a local housing authority to make designations under section 67.
- (2) The authority must ensure that any exercise of the power is consistent with the authority’s overall housing strategy. 35
- (3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour, both –
 - (a) as regards combining licensing under this Part with other courses of action available to them, and 40
 - (b) as regards combining such licensing with measures taken by other persons.
- (4) The authority must not make a particular designation under section 67 unless – 45

- (a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and
- (b) they consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well). 5

69 Designation needs confirmation or general approval to be effective

- (1) A designation of an area as subject to selective licensing cannot come into force unless – 10
 - (a) it has been confirmed by the appropriate national authority; or
 - (b) it falls within a description of designations in relation to which that authority has given a general approval in accordance with subsection (6).
- (2) The appropriate national authority may either confirm, or refuse to confirm, a designation as it considers appropriate. 15
- (3) If the appropriate national authority confirms a designation, the designation comes into force on a date specified for this purpose by that authority.
- (4) That date must be no earlier than three months after the date on which the designation is confirmed. 20
- (5) A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.
- (6) Accordingly a general approval may (in particular) be given in relation to – 25
 - (a) designations made by a specified local housing authority;
 - (b) designations made by a local housing authority falling within a specified description of such authorities;
 - (c) designations relating to Part 3 houses of a specified description.

“Specified” means specified by the appropriate national authority in the approval.
- (7) If, by virtue of a general approval, a designation does not need to be confirmed before it comes into force, the designation comes into force on the date specified for this purpose in the designation. 30
- (8) That date must be no earlier than three months after the date on which the designation is made.
- (9) Where a designation comes into force, this Part applies in relation to the occupation by persons of houses in the area on or after the coming into force of the designation even if their occupation began before, or in pursuance of a contract made before, it came into force. 35

70 Notification requirements relating to designations

- (1) This section applies to a designation – 40
 - (a) when it is confirmed under section 69, or
 - (b) (if it is not required to be so confirmed) when it is made by the local housing authority.

- (2) As soon as the designation is confirmed or made, the authority must publish in the prescribed manner a notice stating –
 - (a) that the designation has been made,
 - (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 69 applied to it (giving details of the approval in question),
 - (c) the date on which the designation is to come into force, and
 - (d) any other information which may be prescribed.5
- (3) After publication of a notice under subsection (1), and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements –
 - (a) copies of the designation, and
 - (b) such information relating to the designation as is prescribed.10
- (4) In this section “prescribed” means prescribed by regulations made by the appropriate national authority. 15

71 Duration, review and revocation of designations

- (1) Unless previously revoked under subsection (4), a designation ceases to have effect at the time that is specified for this purpose in the designation.
- (2) That time must be no later than five years after the date on which the designation comes into force. 20
- (3) A local housing authority must from time to time review the operation of any designation made by them.
- (4) If following a review they consider it appropriate to do so, the authority may revoke the designation.
- (5) If they do revoke the designation, the designation ceases to have effect on the date that is specified by the authority for this purpose. 25
- (6) On revoking a designation, the authority must publish notice of the revocation in such manner as is prescribed by regulations made by the appropriate national authority.

Houses required to be licensed 30

72 Requirement for Part 3 houses to be licensed

- (1) Every Part 3 house must be licensed under this Part unless –
 - (a) a licence is in force under Part 2 in respect of it or a temporary exemption notice is in force in relation to it under section 51, or
 - (b) a temporary exemption notice is in force in relation to it under section 73, or
 - (c) an interim or final management order is in force in relation to it under Part 4.35
- (2) A licence under this Part is a licence authorising occupation of the house concerned under one or more tenancies or licences within section 66(2)(b). 40
- (3) Sections 74 to 77 deal with applications for licences, the granting or refusal of licences and the imposition of licence conditions.

- (4) The local housing authority must take all reasonable steps to secure that applications for licences are made to them in respect of houses in their area which are required to be licensed under this Part but are not so licensed.
- (5) In this Part, unless the context otherwise requires –
- (a) references to a Part 3 house are to a house to which this Part applies (see section 66(2)),
 - (b) references to a licence are to a licence under this Part,
 - (c) references to a licence holder are to be read accordingly, and
 - (d) references to a house being (or not being) licensed under this Part are to its being (or not being) a house in respect of which a licence is in force under this Part.

73 Temporary exemption from licensing requirement

- (1) This section applies where a person having control of or managing a Part 3 house which is required to be licensed under this Part (see section 72(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed.
- (2) The authority may, if they think fit, serve on that person a notice under this section (“a temporary exemption notice”) in respect of the house.
- (3) If a temporary exemption notice is served under this section, the house is (in accordance with section 72(1)) not required to be licensed under this Part during the period for which the notice is in force.
- (4) A temporary exemption notice under this section is in force –
- (a) for the period of 3 months beginning with the date on which it is served, or
 - (b) (in the case of a notice served by virtue of subsection (5)) for the period of 3 months after the date when the first notice ceases to be in force.
- (5) If the authority –
- (a) receive a further notification under subsection (1), and
 - (b) consider that there are exceptional circumstances that justify the service of a second temporary exemption notice in respect of the house that would take effect from the end of the period of 3 months applying to the first notice,
- the authority may serve a second such notice on the person having control of or managing the house (but no further notice may be served by virtue of this subsection).
- (6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of –
- (a) the decision,
 - (b) the reasons for it and the date on which it was made,
 - (c) the right to appeal against the decision under subsection (7), and
 - (d) the period within which an appeal may be made under that subsection.
- (7) The person concerned may appeal to a county court against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made.

- (8) Such an 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.

Paragraph (a) applies despite any provision of Civil Procedure Rules. 5

- (9) The court –
 - (a) may confirm or reverse the decision of the authority, and
 - (b) if it reverses the decision, must direct the authority to issue a temporary exemption notice with effect from such date as the court directs.

Grant or refusal of licences 10

74 Applications for licences

- (1) An application for a licence must be made to the local housing authority.
- (2) The application must be made in accordance with such requirements as the authority may specify.
- (3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority. 15
- (4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).
- (5) The appropriate national authority may by regulations make provision about the making of applications under this section. 20
- (6) Such regulations may, in particular –
 - (a) specify the manner and form in which applications are to be made;
 - (b) require the applicant to give copies of the application, or information about it, to particular persons;
 - (c) specify the information which is to be supplied in connection with applications; 25
 - (d) specify the maximum fees which may be charged (whether by specifying amounts or methods for calculating amounts);
 - (e) specify cases in which no fees are to be charged or fees are to be refunded. 30
- (7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account –
 - (a) all costs incurred by the authority in carrying out their functions under this Part, and
 - (b) all costs incurred by them in carrying out their functions under Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Part). 35

75 Grant or refusal of licence

- (1) Where an application in respect of a house is made to the local housing authority under section 74, the authority may either – 40
 - (a) grant a licence in accordance with subsection (2), or
 - (b) refuse to grant a licence.

-
- (2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either –
- (a) to the applicant, or
 - (b) to some other person, if both he and the applicant agree.
- (3) The matters are – 5
- (a) that the proposed licence holder –
 - (i) is a fit and proper person to be the licence holder, and
 - (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder; 10
 - (b) that the proposed manager of the house is either –
 - (i) the person having control of the house, or
 - (ii) a person who is an agent or employee of the person having control of the house;
 - (c) that the proposed manager of the house is a fit and proper person to be the manager of the house; and 15
 - (d) that the proposed management arrangements for the house are otherwise satisfactory.
- (4) Section 76 applies for the purposes of this section.
- 76 Tests for fitness etc. and satisfactory management arrangements** 20
- (1) In deciding for the purposes of section 75(3)(a) or (c) whether a person (“P”) is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).
- (2) Evidence is within this subsection if it shows that P has – 25
- (a) committed any offence involving fraud or other dishonesty, or violence or drugs;
 - (b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; or 30
 - (c) contravened any provision of the law relating to housing or of landlord and tenant law.
- (3) Evidence is within this subsection if –
- (a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (c), and 35
 - (b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.
- (4) For the purposes of section 75(3)(a) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it. 40
- (5) In deciding for the purposes of section 75(3)(d) whether the proposed management arrangements for the house are otherwise satisfactory, the local 45

housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

- (6) The considerations are –
- (a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved; 5
 - (b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and
 - (c) whether any proposed management structures and funding arrangements are suitable. 10
- (7) Any reference in section 75(3)(b)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force. 15

77 Licence conditions

- (1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following –
- (a) the management, use and occupation of the house concerned, and
 - (b) its condition and contents. 20
- (2) Those conditions may, in particular, include (so far as appropriate in the circumstances) –
- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
 - (b) conditions requiring steps to be taken with a view to controlling relating to the behaviour of persons occupying or visiting the house; 25
 - (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed for the purposes of this section by regulations made by the appropriate national authority; 30
 - (d) conditions requiring such facilities and equipment to be kept in repair and proper working order;
 - (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence. 35
- (3) A licence must include the conditions required by Schedule 4
- (4) As regards the relationship between the authority’s power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 (“Part 1 functions”) – 40
- (a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;
 - (b) this does not, however, prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment within subsection (2)(c) above, even if the same result could be achieved by the exercise of Part 1 functions; 45

- (c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.
- (5) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations. 5
- (6) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house. 10
- 78 Licences: general requirements and duration**
- (1) A licence may not relate to more than one Part 3 house.
- (2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.
- (3) A licence – 15
- (a) comes into force at the time that is specified in or determined under the licence for this purpose, and
- (b) unless previously previously terminated by subsection (7) or revoked under section 80, continues in force for the period that is so specified or determined. 20
- (4) That period must not end more than 5 years after –
- (a) the date on which the licence was granted, or
- (b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.
- (5) Subsection (3)(b) applies even if, at any time during that period, the house concerned subsequently ceases to be a Part 3 house. 25
- (6) A licence may not be transferred to another person.
- (7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.
- (8) However, during the period of 3 months beginning with the date of the licence holder’s death, the house is to be treated for the purposes of this Part as if on that date a temporary exemption notice had been served in respect of the house under section 73. 30
- (9) If, at any time during that period (“the initial period”), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 73. 35
- (10) Subsections (6) to (8) of section 73 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice. 40

Variation and revocation of licences

79 Variation of licences

- (1) The local housing authority may vary a licence –
 - (a) if they do so with the agreement of the licence holder, or
 - (b) if they consider that there has a change of circumstances since the time when the licence was granted. 5

For this purpose “change of circumstances” includes any discovery of new information.
- (2) A variation made with the agreement of the licence holder takes effect at the time when it is made. 10
- (3) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (4) The power to vary a licence under this section is exercisable by the authority either – 15
 - (a) on an application made by the licence holder or a relevant person, or
 - (b) on the authority’s own initiative.
- (5) In subsection (4) “relevant person” means any person (other than the licence holder) – 20
 - (a) who has an estate or interest in the house concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
 - (c) on whom any restriction or obligation is imposed by the licence in accordance with section 77(5). 25

80 Revocation of licences

- (1) The local housing authority may revoke a licence –
 - (a) if they do so with the agreement of the licence holder,
 - (b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holder or other person), 30
 - (c) in any of the cases mentioned in subsection (3) (circumstances relating to house concerned), or
 - (d) in any other circumstances prescribed by regulations made by the appropriate national authority. 35
- (2) The cases referred to in subsection (1)(b) are as follows –
 - (a) where the authority consider that the licence holder or any other person has failed to comply with a condition of the licence;
 - (b) where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and 40
 - (c) where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.
- (3) The cases referred to in subsection (1)(c) are as follows –

-
- (a) where the house to which the licence relates ceases to be a Part 3 house;
 - (b) where a licence has been granted under Part 2 in respect of the house;
 - (c) where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the house, refuse to grant a new licence to the licence holder on similar terms in respect of it. 5
- (4) A revocation made with the agreement of the licence holder takes effect at the time when it is made.
- (5) Otherwise, a revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal). 10
This is subject to subsection (6).
- (6) A revocation made in a case within subsection (3)(b) cannot come into force before such time as would be the operative time for the purposes of subsection (5) under paragraph 35 of Schedule 5 on the assumption that paragraph 35 applied – 15
- (a) to an appeal against the Part 2 licence under paragraph 31 of the Schedule as it applies to an appeal under paragraph 32 of the Schedule, and 20
 - (b) to the period for appealing against the Part 2 licence mentioned in paragraph 33(1) of the Schedule as it applies to the period mentioned in paragraph 33(2) of the Schedule.
- (7) The power to revoke a licence under this section is exercisable by the authority either – 25
- (a) on an application made by the licence holder or a relevant person, or
 - (b) on the authority’s own initiative.
- (8) In subsection (7) “relevant person” means any person (other than the licence holder) – 30
- (a) who has an estate or interest in the house concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
 - (c) on whom any restriction or obligation is imposed by the licence in accordance with section 77(5). 35

Procedure and appeals

81 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part. 40

Enforcement

82 Offences in relation to licensing of houses under this Part

- (1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 72(1)) but is not so licensed. 5
- (2) A person commits an offence if –
- (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 77(5), and
 - (b) he fails to comply with any condition of the licence.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time – 10
- (a) a notification had been duly given in respect of the house under section 51(1) or 73(1), or
 - (b) an application for a licence had been duly made in respect of the house under section 74, 15
- and that notification or application was still effective (see subsection (7)).
- (4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse – 20
- (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
 - (b) for failing to comply with the condition, as the case may be.
- (5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £20,000.
- (6) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 25
- (7) For the purposes of subsection (3) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either – 30
- (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
 - (b) if they have decided not to do so, it is still possible for the person concerned to have that decision reversed on an appeal to a county court or to the Court of Appeal.

83 Further sanctions relating to unlicensed Part 3 houses

35

- (1) Subsection (2) applies to any period during which an offence is being committed under section 82(1) in respect of a house that is required to be licensed under this Part but is not so licensed.
- (2) In respect of any such period – 40
- (a) no rent or licence fee that would (apart from this section) be payable by a person who occupies the house under a tenancy or licence is to be so payable, and
 - (b) no other compensation that would (apart from this section) be payable for use or occupation of the house is to be so payable.

- (3) Where any amount within subsection (2) is paid despite not being payable, the amount is recoverable by the person by whom it is paid.
- (4) Except to the extent provided by subsection (2), nothing in this Part affects the validity of any tenancy or licence under which a person occupies a Part 3 house during a period to which that subsection applies. 5
- (5) Subsection (2) does not affect the operation of any statutory provision relating to the protection of occupiers of premises that operates by reference to the amount of rent or other sums payable by them.

Supplementary provisions

84 Meaning of “house” etc. 10

In this Part—

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;

“house” means a building or part of a building consisting of one or more dwellings; 15

and references to a house include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

85 Index of defined expressions: Part 3

The following table shows where expressions used in this Part are defined or otherwise explained. 20

<i>Expression</i>	<i>Provision of this Act</i>	
Anti-social behaviour	Section 46(5)	
Appropriate national authority	Section 196(1)	
Category 1 hazard	Section 2(1)	25
Category 2 hazard	Section 2(1)	
District of local housing authority	Section 196(6)	
Dwelling	Section 84	
House	Section 84	
Licence and licence holder	Section 72(5)	30
Licence (to occupy premises)	Section 197(9)	
Local housing authority	Section 196(2) to (5)	
Occupier (and related expressions)	Section 197(6)	
Part 3 house	Section 72(5), together with section 66(2)	35

<i>Expression</i>	<i>Provision of this Act</i>	
Person having control	Section 198(1) and (2) (and see also section 76(7))	
Person having estate or interest	Section 197(8)	5
Person managing	Section 198(3)	
Person involved in management	Section 198(5)	
Tenant	Section 197(1) to (5)	

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION 10

Introductory

86 Interim and final management orders: introductory

- (1) Sections 87 to 112 deal with the making by a local housing authority of –
 - (a) an interim management order (see section 87), or
 - (b) a final management order (see section 97),
 in respect of an HMO or a Part 3 house. 15
- (2) Section 88 deals with the making of an interim management order in respect of a house to which that section applies.
- (3) An interim management order is an order (expiring not more than 12 months after it is made) which is made for the purpose of securing that the following steps are taken in relation to the house – 20
 - (a) any immediate steps which the authority consider necessary to protect the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity, and 25
 - (b) any other steps which the authority think appropriate with a view to the proper management of the house pending the grant of a licence under Part 2 or 3 in respect of the house or the making of a final management order in respect of it (or, if appropriate, the revocation of the interim management order). 30
- (4) A final management order is an order (expiring not more than 5 years after it is made) which is made for the purpose of securing the proper management of the house on a long-term basis in accordance with a management scheme contained in the order.
- (5) The appropriate national authority may by regulations provide for – 35
 - (a) any provision of this Part, or
 - (b) section 198(1) or (2) (in its operation for the purposes of any such provision),
 to have effect in relation to a section 193 HMO with such modifications as are prescribed by the regulations. 40

A “section 193 HMO” is an HMO which is a converted block of flats to which section 193 applies.

- (6) In this Part –
 “HMO” means a house in multiple occupation as defined by sections 191 to 195, 5
 “Part 3 house” means a house to which Part 3 of this Act applies (see section 66(2)),
 and any reference to an HMO or Part 3 house includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it). 10
- (7) In this Part any reference to “the house”, in relation to an interim or final management order (other than an order under section 87(7)), is a reference to the HMO or Part 3 house to which the order relates.
- (8) Subsection (7) has effect subject to sections 87(8) and 97(7) (exclusion of part occupied by resident landlord). 15

Interim management orders: making and operation of orders

87 Making of interim management orders

- (1) A local housing authority –
 (a) are under a duty to make an interim management order in respect of a house in a case within subsection (2) or (3), and 20
 (b) have power to make an interim management order in respect of a house in a case within subsection (4) or (7).
- (2) The authority must make an interim management order in respect of a house if –
 (a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 (see section 50(1) or 72(1)) but is not so licensed, and 25
 (b) they consider either –
 (i) that there is no reasonable prospect of its being so licensed in the near future, or
 (ii) that the health and safety condition is satisfied (see section 89). 30
- (3) The authority must make an interim management order in respect of a house if –
 (a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 and is so licensed,
 (b) they have revoked the licence concerned but the revocation is not yet in force, and 35
 (c) they consider either –
 (i) that, on the revocation coming into force, there will be no reasonable prospect of the house being so licensed in the near future, or 40
 (ii) that, on the revocation coming into force, the health and safety condition will be satisfied (see section 89).
- (4) The authority may make an interim management order in respect of a house if –

- (a) it is an HMO other than one that is required to be licensed under Part 2, and
- (b) on an application by the authority to a county court, the court by order authorises them to make such an order;
- and the authority may make such an order despite any pending appeal against the order of the county court (but this is without prejudice to any order that may be made by the court to which any such appeal is brought). 5
- (5) The court may only authorise the authority to make an interim management order under subsection (4) if it considers that the health and safety condition is satisfied (see section 89). 10
- (6) In determining whether to authorise the authority to make an interim management order in respect of an HMO under subsection (4), the court must have regard to the extent to which any applicable code of practice approved under section 171 has been complied with in respect of the HMO in the past.
- (7) The authority may make an interim management order in respect of a house if – 15
- (a) it is a house to which section 88 (special interim management orders) applies, and
- (b) on an application by the authority to a county court, the court by order authorises them to make such an order; 20
- and the authority may make such an order despite any pending appeal against the order of the county court (but this is without prejudice to any order that may be made by the court to which any such appeal is brought).
- Subsections (2) to (6) of section 88 apply in relation to the power of the court under this subsection. 25
- (8) The authority may make an interim management order which is expressed not to apply to a part of the house that is occupied by a person who has an estate or interest in the whole of the house.
- In relation to such an order, a reference in this Part to “the house” does not include the part so excluded (unless the context requires otherwise, such as where the reference is to the house as an HMO or a Part 3 house). 30
- (9) Nothing in this section requires or authorises the making of an interim management order in respect of a house if –
- (a) a interim management order has been previously made in respect of it, and 35
- (b) the authority have not exercised any relevant function in respect of the house at any time after the making of the interim management order.
- (10) In subsection (9) “relevant function” means the function of –
- (a) granting a licence under Part 2 or 3,
- (b) serving a temporary exemption notice under section 51 or section 73, or 40
- (c) making a final management order under section 97.

88 Special interim management orders

- (1) This section applies to a house if the whole of it is occupied either –
- (a) under a single tenancy or licence that is not an exempt tenancy or licence under section 66(3) or (4), or 45

- (b) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under section 66(3) or (4).
- (2) The court may only authorise the authority to make an interim management order in respect of such a house under section 87(7) if it considers that both of the following conditions are satisfied. 5
- (3) The first condition is that the circumstances relating to the house fall within any category of circumstances prescribed for the purposes of this subsection by an order under subsection (5).
- (4) The second condition is that the making of the order is necessary for the purpose of protecting the health, safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the locality of the house. 10
- (5) The appropriate national authority may by order –
- (a) prescribe categories of circumstances for the purposes of subsection (3),
- (b) provide for any of the provisions of this Act to apply in relation to houses to which this section applies, or interim management orders made in respect of them, with any modifications specified in the order. 15
- (6) The categories prescribed by an order under subsection (5) are to reflect one or more of the following –
- (a) the first or second set of general conditions mentioned in subsection (3) or (6) of section 67, or 20
- (b) any additional set of conditions specified under subsection (7) of that section,
- but (in each case) with such modifications as the appropriate national authority considers appropriate to adapt them to the circumstances of a single house. 25
- (7) In this section “house” has the same meaning as in Part 3 (see section 84).
- (8) In this Part –
- (a) any reference to “the house”, in relation to an interim management order under section 87(7), is a reference to the house to which the order relates, and 30
- (b) any such reference includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

89 The health and safety condition

- (1) This section explains what “the health and safety condition” is for the purposes of section 87. 35
- (2) The health and safety condition is that the making of an interim management order is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity. 40
- (3) A threat to evict persons occupying a house in order to avoid the house being required to be licensed under Part 2 may constitute a threat to the welfare of those persons for the purposes of subsection (2).
This does not affect the generality of that subsection.

- (4) The health and safety condition is not to be regarded as satisfied for the purposes of section 87(2)(b)(ii) or (3)(c)(ii) where both of the conditions in subsections (5) and (6) are satisfied.
- (5) The first condition is that the local housing authority either –
- (a) (in a case within section 87(2)(b)(ii)) are required by section 5 (general duty to take enforcement action in respect of category 1 hazards) to take a course of action within subsection (2) of that section in relation to the house, or
 - (b) (in a case within section 87(3)(c)(ii)) consider that on the revocation coming into force they will be required to take such a course of action.
- (6) The second condition is that the local housing authority consider that the health, safety or welfare of the persons in question would be adequately protected by taking that course of action.

90 Operation of interim management orders

- (1) This section deals with the time when an interim management order comes into force or ceases to have effect. 15
- (2) The order comes into force when it is made, unless it is made under section 87(3).
- (3) If the order is made under section 87(3), it comes into force when the revocation of the licence comes into force. 20
- (4) The order ceases to have effect at the end of the period of 12 months beginning with the date on which it is made, unless it ceases to have effect at some other time as mentioned below.
- (5) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date. 25
- (6) If the order is made under section 87(3) –
- (a) it must include a provision for determining the date on which it will cease to have effect, and
 - (b) it accordingly ceases to have effect on the date so determined.
- (7) That date must be no later than 12 months after the date on which the order comes into force. 30
- (8) Subsections (9) and (10) apply where –
- (a) a final management order (“the FMO”) has been made under section 97 so as to replace the order (“the IMO”), but
 - (b) the FMO has not come into force because of an appeal to a county court under paragraph 24 of Schedule 6 against the making of the FMO. 35
- (9) If –
- (a) the house would (but for the IMO being in force) be required to be licensed under Part 2 or 3 of this Act (see section 50(1) or 72(1)), and
 - (b) the date on which – 40
 - (i) the FMO,
 - (ii) any licence under Part 2 or 3, or
 - (iii) another interim management order,

- comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the IMO would cease to have effect apart from this subsection,
the IMO continues in force until that later date.
- (10) If— 5
- (a) the house is an HMO other than one to which Part 2 of this Act applies, and
- (b) on the application of the authority, the county court makes an order providing for the IMO to continue in force, pending the disposal of the appeal, until a date later than that on which the IMO would cease to have effect apart from this subsection, 10
- the IMO accordingly continues in force until that later date.
- (11) This section has effect subject to sections 95 and 96 (variation or revocation of orders by authority) and to the power of revocation exercisable by the court on an appeal made under paragraph 24 or 28 of Schedule 6. 15
- 91 Local housing authority’s duties once interim management order in force**
- (1) A local housing authority who have made an interim management order in respect of a house must comply with the following provisions as soon as practicable after the order has come into force.
- (2) The authority must first take any immediate steps which they consider to be necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity. 20
- (3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the house pending— 25
- (a) the grant of a licence or the making of a final management order in respect of the house as mentioned in subsection (4) or (5), or
- (b) the revocation of the interim management order as mentioned in subsection (5).
- (4) If the house would (but for the order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 50(1) or 72(1)), the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action— 30
- (a) to grant a licence under that Part in respect of the house, or
- (b) to make a final management order in respect of it under section 97(1). 35
- (5) If the house is an HMO other than one to which Part 2 of this Act applies, the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—
- (a) to make a final management order in respect of the house under section 97(3), or 40
- (b) to revoke the order under section 96 without taking any further action.
- (6) In the following provisions, namely—
- (a) subsections (3) and (4), and
- (b) section 86(3)(b),
- the reference to the grant of a licence under Part 2 or 3 in respect of the house includes a reference to serving a temporary exemption notice under section 51 45

or section 73 in respect of it (whether or not a notification is given under subsection (1) of that section).

- (7) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes. 5

92 General effect of interim management orders

- (1) This section applies while an interim management order is in force in relation to a house.
- (2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duties under section 91(1) to (3) in respect of the house. 10
- (3) The authority –
- (a) have the right to possession of the house (subject to the rights of existing occupiers preserved by section 106(2)); 15
 - (b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;
 - (c) may create one or more of the following –
 - (i) an interest in the house which, as far as possible, has all the incidents of a leasehold, or 20
 - (ii) a right in the nature of a licence to occupy part of the house.
- (4) But the authority may not under subsection (3)(c) create any interest or right in the nature of a lease or licence unless consent in writing has been given by the person who (but for the order) would have power to create the lease or licence in question. 25
- (5) The authority –
- (a) do not under this section acquire any estate or interest in the house, and
 - (b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest; 30
- but, where the immediate landlord of the house or part of it (within the meaning of section 93) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.
- (6) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to – 35
- (a) an interest created by the authority under subsection (3)(c),
 - (b) a lease in relation to which the authority are to be treated as the lessee under subsection (5), or
 - (c) a lease to which the authority become a party under section 106(3), 40
- as if the authority were the legal owner of the premises (but this is subject to section 106(5) to (7)).
- (7) None of the following, namely –
- (a) the authority, or
 - (b) any person authorised under subsection (3)(b) 45

is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's duties under section 91(1) to (3) unless the act or omission is due to the negligence of the authority or any such person.

- (8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which an interim management order is in force. 5
- (9) An interim management order which has come into force is a local land charge.
- (10) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)). 10
- 93 General effect of interim management orders: immediate landlords, mortgagees etc.**
- (1) This section applies in relation to –
- (a) immediate landlords, and
 - (b) other persons with an estate or interest in the house, 15
- while an interim management order is in force in relation to a house.
- (2) A person who is an immediate landlord of the house or a part of it –
- (a) is not entitled to receive –
 - (i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 106(3), or 20
 - (ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any interest or right created by them under section 92(3)(c),
 - (b) may not exercise any rights or powers with respect to the management of the house or part; and 25
 - (c) may not create any of the following –
 - (i) any leasehold interest in the house or part (other than a lease of a reversion), or
 - (ii) any licence or other right to occupy it. 30
- (3) However (subject to subsection (2)(c)) nothing in section 92 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.
- (4) Nothing in section 92 or this section affects –
- (a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or 35
 - (b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 92(5)) any rights or remedies available to the lessor under such a lease; 40
- and in proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the interim management order (including an order quashing it).
- (5) For the purposes of this Part, as it applies in relation to an interim management order, a person is an “immediate landlord” of the house or a part of it if – 45
- (a) he is an owner or lessee of the house or part, and

- (b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 106(3).
- (6) For the purposes of this Part “mortgage” includes a charge or lien, and “mortgagee” is to be read accordingly.

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94 Financial arrangements while order is in force

- (1) This section applies to relevant expenditure of a local housing authority who have made an interim management order.
- (2) “Relevant expenditure” means expenditure reasonably incurred by the authority in connection with performing their duties under section 91(1) to (3) in respect of the house (including any premiums paid for insurance of the premises). 10
- (3) Rent or other payments which the authority have collected or recovered, by virtue of this Part, from persons occupying the house may be used by the authority to meet relevant expenditure. 15
- (4) The authority must pay to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate –
 - (a) any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure, and 20
 - (b) (where appropriate) interest on that amount at a reasonable rate fixed by the authority,and such payments are to be made at such intervals as the authority consider appropriate.
- (5) The authority must – 25
 - (a) keep full accounts of their income and expenditure in respect of the house; and
 - (b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts. 30
- (6) A relevant landlord may apply to a county court for an order –
 - (a) declaring that an amount shown in the accounts as expenditure of the authority does not constitute expenditure reasonably incurred by the authority as mentioned in subsection (2);
 - (b) requiring the authority to make such financial adjustments (in the accounts and otherwise) as are necessary to reflect the court’s declaration. 35
- (7) In this section –
 - “expenditure” includes administrative costs;
 - “relevant landlord” means any person who is an immediate landlord of the house or part of it; 40
 - “rent or other payments” means rents or other payments payable under leases or licences or in respect of furniture within section 108(1).

*Interim management orders: variation and revocation***95 Variation of interim management orders**

- (1) The local housing authority may vary an interim management order if they consider it appropriate to do so.
- (2) A variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal). 5
- (3) The power to vary an order under this section is exercisable by the authority either – 10
- (a) on an application made by a relevant person, or
 - (b) on the authority’s own initiative.
- (4) In this section “relevant person” means – 15
- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

96 Revocation of interim management orders

- (1) The local housing authority may revoke an interim management order in the following cases – 20
- (a) if the order was made under section 87(2) or (3) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be);
 - (b) if the order was made under section 87(2) or (3) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 on the revocation of the order; 25
 - (c) if a final management order has been made by them in respect of the house so as to replace the order;
 - (d) if in any other circumstances the authority consider it appropriate to revoke the order. 30
- (2) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal). 35
- (3) The power to revoke an order under this section is exercisable by the authority either –
- (a) on an application made by a relevant person, or
 - (b) on the authority’s own initiative.
- (4) In this section “relevant person” means – 40
- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) any other person who (but for the order) would be a person managing or having control of the house or part of it. 45

Final management orders: making and operation of orders

97 Making of final management orders

- (1) A local housing authority who have made an interim management order in respect of a house under section 87 (“the IMO”) –
 - (a) have a duty to make a final management order in respect of the house in a case within subsection (2), and 5
 - (b) have power to make such an order in a case within subsection (3).
- (2) The authority must make a final management order so as to replace the IMO as from its expiry date if –
 - (a) on that date the house would be required to be licensed under Part 2 or 3 of this Act (see section 50(1) or 72(1)), and 10
 - (b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the IMO as from that date.
- (3) The authority may make a final management order so as to replace the IMO as from its expiry date if –
 - (a) on that date the house will be an HMO other than one to which Part 2 applies, and 15
 - (b) the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity. 20
- (4) A local housing authority who have made a final management order in respect of a house under this section (“the existing order”) –
 - (a) have a duty to make a final management order in respect of the house in a case within subsection (5), and 25
 - (b) have power to make such an order in a case within subsection (6).
- (5) The authority must make a new final management order so as to replace the existing order as from its expiry date if –
 - (a) on that date the condition in subsection (2)(a) will be satisfied in relation to the house, and 30
 - (b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the existing order as from that date.
- (6) The authority may make a new final management order so as to replace the existing order as from its expiry date if –
 - (a) on that date the condition in subsection (3)(a) will be satisfied in relation to the house, and 35
 - (b) the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons within subsection (3)(b). 40
- (7) The authority may make a final management order which is expressed not to apply to a part of the house that is occupied by a person who has an estate or interest in the whole of the house. 45
In relation to such an order, a reference in this Part to “the house” does not include the part so excluded (unless the context requires otherwise, such as where the reference is to the house as an HMO or a Part 3 house).

(8) In this section “expiry date”, in relation to an interim or final management order, means –

- (a) where the order is revoked, the date as from which it is revoked, and
- (b) otherwise the date on which the order ceases to have effect under section 90 or 98;

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and nothing in this section applies in relation to an interim or final management order which has been revoked on an appeal under Part 3 of Schedule 6.

98 Operation of final management orders

(1) This section deals with the time when a final management order comes into force or ceases to have effect. 10

(2) The order does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 27 of Schedule 6 (time when period for appealing expires without an appeal being made or when order is confirmed on appeal). 15

(3) The order ceases to have effect at the end of the period of 5 years beginning with the date on which it comes into force, unless it ceases to have effect at some other time as mentioned below.

(4) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date. 20

(5) Subsections (6) and (7) apply where –

- (a) a new final management order (“the new order”) has been made so as to replace the order (“the existing order”), but
- (b) the new order has not come into force because of an appeal to a county court under paragraph 24 of Schedule 6 against the making of that order. 25

(6) If –

- (a) the house would (but for the existing order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 50(1) or 72(1)), and 30

(b) the date on which –

- (i) the new order, or
- (ii) any licence under Part 2 or 3, or
- (iii) a temporary exemption notice under section 51 or 73,

comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection, 35

the existing order continues in force until that later date.

(7) If –

- (a) the house is an HMO other than one to which Part 2 of this Act applies, and 40

(b) on the application of the authority, the county court makes an order providing for the existing order to continue in force, pending the disposal of the appeal, until a date later than that on which it would cease to have effect apart from this subsection, 45

the existing order accordingly continues in force until that later date.

- (8) This section has effect subject to sections 103 and 104 (variation or revocation of orders) and to the power of revocation exercisable by the court on an appeal made under paragraph 24 or 28 of Schedule 6.

99 Local housing authority’s duties once final management order in force

- (1) A local housing authority who have made a final management order in respect of a house must comply with the following provisions once the order has come into force. 5
- (2) The local housing authority must take such steps as they consider appropriate with a view to the proper management of the house in accordance with the management scheme contained in the order (see section 102). 10
- (3) The local housing authority must from time to time review –
- (a) the operation of the order and in particular the management scheme contained in it, and
 - (b) whether keeping the order in force in relation to the house (with or without making any variations under section 103) is the best alternative available to them. 15
- (4) If on a review the authority consider that any variations should be made under section 103, they must proceed to make those variations.
- (5) If on a review the authority consider that either –
- (a) granting a licence under Part 2 or 3 in respect of the house, or 20
 - (b) revoking the order under section 104 and taking no further action,
- is the best alternative available to them, the authority must grant such a licence or revoke the order (as the case may be).
- (6) For the avoidance of doubt, the authority’s duty under subsection (2) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes. 25

100 General effect of final management orders

- (1) This section applies while a final management order is in force in relation to a house. 30
- (2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duty under section 99(2) in respect of the house.
- (3) The authority –
- (a) have the right to possession of the house (subject to the rights of existing occupiers preserved by section 106(2)); 35
 - (b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;
 - (c) may create one or more of the following –
 - (i) an interest in the house which, as far as possible, has all the incidents of a leasehold, or
 - (ii) a right in the nature of a licence to occupy part of the house. 40
- (4) The powers of the authority under subsection (3)(c) are restricted as follows –

-
- (a) they may not create any interest or right in the nature of a lease or licence –
- (i) which is for a fixed term expiring after the date on which the order is due to expire, or
 - (ii) (subject to paragraph (b)) which is terminable by notice to quit, or an equivalent notice, of more than 4 weeks, 5
- unless consent in writing has been given by the person who would (but for the order) have power to create the lease or licence in question;
- (b) they may create an interest in the nature of an assured shorthold tenancy without any such consent so long as it is created before the beginning of the period of 6 months that ends with the date on which the order is due to expire. 10
- (5) The authority –
- (a) do not under this section acquire any estate or interest in the house, and
 - (b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest; 15
- but, where the immediate landlord of the house or part of it (within the meaning of section 101) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead. 20
- (6) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to –
- (a) an interest created by the authority under subsection (3)(c),
 - (b) a lease in relation to which the authority are to be treated as the lessee under subsection (5), or 25
 - (c) a lease to which the authority become a party under section 106(3), as if the authority were the legal owner of the premises (but this is subject to section 106(5) to (7)).
- (7) None of the following, namely –
- (a) the authority, or 30
 - (b) any person authorised under subsection (3)(b),
- is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority’s duty under section 99(2) unless the act or omission is due to the negligence of the authority or any such person. 35
- (8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which a final management order is in force.
- (9) A final management order which has come into force is a local land charge.
- (10) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)). 40
- 101 General effect of final management orders: immediate landlords, mortgagees etc.**
- (1) This section applies in relation to –
- (a) immediate landlords, and 45
 - (b) other persons with an estate or interest in the house,

while a final management order is in force in relation to a house.

- (2) A person who is an immediate landlord of the house or a part of it –
- (a) is not entitled to receive –
 - (i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 106(3), or 5
 - (ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any interest or right created by them under section 100(3)(c),
 - (b) may not exercise any rights or powers with respect to the management of the house or part; and 10
 - (c) may not create any of the following –
 - (i) any leasehold interest in the house or part (other than a lease of a reversion), or
 - (ii) any licence or other right to occupy it. 15
- (3) However (subject to subsection (2)(c)) nothing in section 100 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.
- (4) Nothing in section 100 or this section affects –
- (a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or 20
 - (b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 100(5)) any rights or remedies available to the lessor under such a lease; 25
- and in proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the final management order (including an order quashing it).
- (5) For the purposes of this Part, as it applies in relation to a final management order, a person is an “immediate landlord” of the house or a part of it if – 30
- (a) he is an owner or lessee of the house or part, and
 - (b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the authority by virtue of section 106(3).

102 Management scheme and accounts 35

- (1) A final management order must contain a management scheme.
- (2) A “management scheme” is a scheme setting out how the local housing authority are to carry out their duty under section 99(2) as respects the management of the house.
- (3) A management scheme is to be divided into two parts. 40
- (4) Part 1 of the scheme is to contain a plan giving details of the way in which the authority propose to manage the house, which must (in particular) include –
- (a) details of any works that the authority intend to carry out in connection with the house;
 - (b) an estimate of the capital and other expenditure to be incurred by the authority in respect of the house while the order is in force; 45

-
- (c) the amount of rent or other payments that the authority will seek to obtain having regard to the condition or expected condition of the house at any time while the order is in force;
- (d) provision as to the payment by the authority to a relevant landlord, from time to time, of amounts of rent or other payments that remain after the deduction of relevant expenditure; 5
- (e) as to the manner in which the authority are to pay to a relevant landlord, on the termination of the final management order, any amounts of rent or other payments that remain after the deduction of relevant expenditure (as mentioned in section 110(4)). 10
- (5) Part 1 of the scheme may also state –
- (a) the authority’s intentions as regards the use of rent or other payments to meet relevant expenditure;
- (b) the authority intentions as regards the payment to a relevant landlord (where appropriate) of interest on amounts within subsection (4)(c) and (d); 15
- (c) that section 110(2) is not to apply in respect of an interim management order that immediately preceded the final management order, and that instead the authority intend to use any balance such as is mentioned in that subsection to meet relevant expenditure incurred during the currency of the final management order; 20
- (d) the authority’s intentions as regards the use of rent or other payments collected or recovered during the currency of the final management order to meet any deficit such as is mentioned in section 110(3) in respect of an interim management order that immediately preceded the final management order; 25
- (e) the authority’s intentions as regards the recovery from a relevant landlord, with or without interest, of any amount of relevant expenditure that cannot be reimbursed out of the total amount of rent or other payments. 30
- (6) Part 2 of the scheme is to describe in general terms how the authority intend to address the matters which caused them to make the final management order and may, for example, include –
- (a) descriptions of any steps that the authority intend to take to require persons occupying the house to comply with their obligations under any lease or licence or under the general law; 35
- (b) descriptions of any repairs that are needed to the property and an explanation as to why those repairs are necessary.
- (7) The authority must –
- (a) keep full accounts of their income and expenditure in respect of the house; and 40
- (b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (8) In this section – 45
- “relevant expenditure” means expenditure reasonably incurred by the authority in connection with performing their duties under section 99(2) in respect of the house (including any reasonable administrative costs and any premiums paid for insurance of the premises);

“relevant landlord” means any person who is an immediate landlord of the house or part of it;

“rent or other payments” means rent or other payments –

- (a) which are payable under leases or licences or in respect of furniture within section 108(1), and 5
 - (b) which the authority have collected or recovered by virtue of this Part.
- (9) In the provisions of this Part relating to varying, revoking or appealing against decisions relating to a final management order, any reference to such an order includes (where the context permits) a reference to the management scheme contained in it. 10

Final management orders: variation and revocation

103 Variation of final management orders

- (1) The local housing authority may vary a final management order if they consider it appropriate to do so. 15
- (2) A variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (3) The power to vary an order under this section is exercisable by the authority either – 20
 - (a) on an application made by a relevant person, or
 - (b) on the authority’s own initiative.
- (4) In this section “relevant person” means – 25
 - (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
 - (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

104 Revocation of final management orders 30

- (1) The local housing authority may revoke a final management order in the following cases –
 - (a) if the order was made under section 97(2) or (5) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be); 35
 - (b) if the order was made under section 97(2) or (5) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 as from the revocation of the order;
 - (c) if a further final management order has been made by them in respect of the house so as to replace the order; 40
 - (d) if in any other circumstances the authority consider it appropriate to revoke the order.
- (2) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time

when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

- (3) The power to revoke an order under this section is exercisable by the authority either –
- (a) on an application made by a relevant person, or 5
 - (b) on the authority’s own initiative.
- (4) In this section “relevant person” means –
- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or 10
 - (b) any person who (but for the order) would be a person managing or having control of the house or part of it.

Interim and final management orders: procedure and appeals

105 Procedural requirements and appeals

Schedule 6 (which deals with procedural requirements relating to the making, variation or revocation of interim and final management orders and with appeals against decisions relating to such orders) has effect. 15

Interim and final management orders: other general provisions

106 Effect of management orders: occupiers

- (1) In this section – 20
- “existing occupier” means a person who, at the time when an interim or final management order comes into force, is one of the following –
- (a) (in the case of an HMO or Part 3 house) a person who is occupying part of the house and does not have an estate or interest in the whole of the house, or 25
 - (b) (in the case of a Part 3 house) a person who is occupying the whole of the house; and
- “new occupier” means a person who is occupying the whole or part of a house under an agreement in the nature of a lease or licence created under section 92(3)(c) or 100(3)(c). 30
- (2) Sections 92 and 100 do not affect the rights or liabilities of an existing occupier under a lease or licence (whether in writing or not) under which he is occupying the whole or part of the house at the commencement date.
- (3) Where the lessor or licensor under such a lease or licence – 35
- (a) has an estate or interest in the house, and
 - (b) is not an existing occupier,
- the lease or licence has effect while the order is in force as if the local housing authority were substituted in it for the lessor or licensor.
- (4) Such a lease continues to have effect, as far as possible, as a lease despite the fact that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises. 40

- (5) The provisions which exclude local authority lettings from the Rent Acts, namely –
- (a) sections 14 to 16 of the Rent Act 1977 (c. 42), and
 - (b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act,
- 5
- do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.
- (6) Section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (which exclude local authority lettings from Part 1 of that Act) do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.
- 10
- (7) Nothing in section 92(6) or 100(6) or this section has the result that the authority are to be treated as the legal owner of any premises for the purposes of –
- (a) section 80 of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies); or
 - (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).
- 15
- (8) If, immediately before the coming into force of an interim or final management order, an existing occupier was occupying the whole or part of the house under –
- (a) a protected or statutory tenancy within the meaning of the Rent Act 1977,
 - (b) a protected or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976, or
 - (c) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988 (c. 50),
- 20
- nothing in this Part prevents the continuance of that tenancy or occupancy or affects the continued operation of any of those Acts in relation to the tenancy or occupancy after the coming into force of the order.
- 25
- (9) In this section “the commencement date” means the date on which the order came into force (or, if that order was preceded by one or more orders under this Part, the date when the first order came into force).
- 30

107 Effect of management orders: agreements and legal proceedings

- (1) An agreement or instrument within subsection (2) has effect, while an interim or final management order is in force, as if any rights or liabilities of the immediate landlord under the agreement or instrument were instead rights or liabilities of the local housing authority.
- 35
- (2) An agreement or instrument is within this subsection if –
- (a) it is effective on the commencement date,
 - (b) one of the parties to it is a person who is the immediate landlord of the house or a part of the house (“the relevant premises”),
 - (c) it relates to the house, whether in connection with –
 - (i) any management activities with respect to the relevant premises, or
 - (ii) the provision of any services or facilities for persons occupying those premises,
- 40
- or otherwise,
- 45

-
- (d) it is specified for the purposes of this subsection in the order or falls within a description of agreements or instruments so specified, and
- (e) the authority serve a notice in writing on all the parties to it stating that subsection (1) is to apply to it.
- (3) An agreement or instrument is not within subsection (2) if – 5
- (a) it is a lease within section 92(5) or 100(5), or
- (b) it relates to any disposition by the immediate landlord which is not precluded by section 93(2) or 101(2), or
- (c) it is within section 106(3).
- (4) Proceedings in respect of any cause of action within subsection (5) may, while an interim or final management order is in force, be instituted or continued by or against the local housing authority instead of by or against the immediate landlord. 10
- (5) A cause of action is within this subsection if –
- (a) it is a cause of action (of any nature) which accrued to or against the immediate landlord of the house or a part of the house before the commencement date, 15
- (b) it relates to the house as mentioned in subsection (2)(c),
- (c) it is specified for the purposes of this subsection in the order or falls within a description of causes of action so specified, and 20
- (d) the authority serve a notice in writing on all interested parties stating that subsection (4) is to apply to it.
- (6) If, by virtue of this section, the authority become subject to any liability to pay damages in respect of anything done (or omitted to be done) before the commencement date by or on behalf of the immediate landlord of the house or a part of it, the immediate landlord is liable to reimburse to the authority an amount equal to the amount of the damages paid by them. 25
- (7) In this section –
- “agreement” includes arrangement;
- “the commencement date” means the date on which the order comes into force (or, if that order was preceded by one or more orders under this Part, the date when the first order came into force); 30
- “management activities” includes repair, maintenance, improvement and insurance.
- 108 Effect of management orders: furniture** 35
- (1) Subsection (2) applies where, on the date on which an interim or final management order comes into force, there is furniture in the house which a person occupying the house has the right to use in consideration of periodical payments to a person who is an immediate landlord of the house or a part of it (whether the payments are included in the rent payable by the occupier or not). 40
- (2) The right to possession of the furniture against all persons other than the occupier vests in the local housing authority on that date and remains vested in the authority while the order is in force.
- (3) The local housing authority may renounce the right to possession of the furniture conferred by subsection (2) if – 45

- (a) an application in writing has been made to them for the purpose by the person owning the furniture, and
 - (b) they renounce the right by notice in writing served on that person not less than two weeks before the notice takes effect.
- (4) If the authority’s right to possession of furniture conferred by subsection (2) is a right exercisable against more than one person interested in the furniture, any of those persons may apply to a county court for an adjustment of their respective rights and liabilities as regards the furniture. 5
- (5) On such an application the county court may make an order for such an adjustment of rights and liabilities, either unconditionally or subject to such terms and conditions, as it considers appropriate. 10
- (6) The terms and conditions may, in particular, include terms and conditions about the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise.
- (7) In this section “furniture” includes fittings and other articles. 15

109 Management orders: power to supply furniture

- (1) The local housing authority may supply the house to which an interim or final management order relates with such furniture as they consider to be required.
- (2) For the purposes of section 94 or a management scheme under section 102, any expenditure incurred by the authority under this section constitutes expenditure incurred by the authority in connection with performing their duty under section 91(3) or 99(2). 20
- (3) In this section “furniture” includes fittings and other articles.

110 Termination of management orders: financial arrangements

- (1) This section applies where – 25
- (a) an interim or final management order ceases to have effect for any reason, and
 - (b) the order is not immediately followed by a further order under this Part.
- (2) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 94(3) exceeds the total amount of the authority’s relevant expenditure, the local housing authority must pay the balance – 30
- (a) to such relevant landlord, or
 - (b) to such relevant landlords in such proportions, 35
- as they consider appropriate; and the balance is to be paid by them as soon as practicable after the termination date.
- This subsection does not apply if the management scheme contained in a final management order so provides.
- (3) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 94(3) is less than the total amount of the authority’s relevant expenditure, the difference is recoverable by the authority – 40
- (a) from such relevant landlord, or

- (b) from such relevant landlords in such proportions,
as they consider appropriate.
- (4) If, on the termination date for a final management order, any amount is payable to any relevant landlord in accordance with the management scheme under section 102, that amount must be paid to that person by the local housing authority in the manner provided by the scheme. 5
- (5) If, on the termination date for a final management order, any amount is payable to the local housing authority in accordance with the management scheme, that amount is recoverable by local housing authority – 10
- (a) from such relevant landlord, or
- (b) from such relevant landlords in such proportions,
as is provided by the scheme.
- (6) Any sum recoverable by the authority under subsection (3) or (5) is, until recovered, a charge on the house.
- (7) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver. 15
- (8) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect. 20
- (9) If the order is to be followed by a licence granted under Part 2 or 3 in respect of the house, the conditions contained in the licence may include a condition requiring the licence holder – 25
- (a) to repay to the authority any amount recoverable by them under subsection (3) or (5), and
- (b) to do so in such instalments as are specified in the licence.
- (10) In this section –
- “relevant expenditure” has the same meaning as in section 94;
- “relevant landlord” means a person who was the immediate landlord of the house or part of it immediately before the termination date or his successor in title for the time being; 30
- “rent or other payments” means rents or other payments payable under leases or licences or in respect of furniture within section 108(1);
- “the termination date” means the date on which the order ceases to have effect. 35

111 Termination of management orders: leases, agreements and proceedings

- (1) This section applies where – 40
- (a) an interim or final management order ceases to have effect for any reason, and
- (b) the order is not immediately followed by a further order under this Part.
- (2) As from the termination date –
- (a) a lease or licence in which the local housing authority was substituted for another party by virtue of section 106(3) has effect with the 45

- substitution of the original party, or his successor in title, for the authority; and
- (b) an agreement in the nature of a lease or licence created by the authority under section 92 or 100 has effect with the substitution of the relevant landlord for the authority. 5
- (3) If the relevant landlord is a lessee, nothing in a superior lease imposes liability on him or any superior lessee in respect of anything done in pursuance of the terms of an agreement to which subsection (2)(b) applies.
- (4) If the condition in subsection (5) is met, any other agreement entered into by the authority in the performance of their duties under section 91(1) to (3) or 99(2) in respect of the house has effect, as from the termination date, with the substitution of the relevant landlord for the authority. 10
- (5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that subsection (4) applies to the agreement.
- (6) If the condition in subsection (7) is met – 15
- (a) any rights or liabilities that were rights or liabilities of the authority immediately before that date by virtue of any provision of this Part or under any agreement to which subsection (4) applies are rights or liabilities of the relevant landlord instead, and
- (b) any proceedings instituted or continued by or against the authority by virtue of any such provision or agreement may be continued by or against the relevant landlord instead, 20
- as from the termination date.
- (7) The condition is that the authority serve a notice on all interested parties stating that subsection (4) applies to the rights or liabilities or (as the case may be) the proceedings. 25
- (8) If by virtue of this section a relevant landlord becomes subject to any liability to pay damages in respect of anything done (or omitted to be done) before the termination date by or on behalf of the authority, the authority are liable to reimburse to the relevant landlord an amount equal to the amount of the damages paid by him. 30
- (9) Where two or more persons are relevant landlords in relation to different parts of the house any reference in this section to “the relevant landlord” is to be taken to refer to such one or more of them as is determined by agreement between them or (in default of agreement) by the county court on an application made by any of them. 35
- (10) In this section –
- (a) “agreement” includes arrangement;
- (b) “relevant landlord” means a person who was the immediate landlord of the house immediately before the termination date or his successor in title for the time being; 40
- (c) “the termination date” means the date on which the order ceases to have effect.

112 Management orders: power of entry to carry out work

- (1) The right mentioned in subsection (2) is exercisable by the local housing authority, or any person authorised in writing by them, at any time when an interim or final management order is in force.
- (2) That right is the right at all reasonable times to enter any part of the house for the purpose of carrying out works, and is exercisable as against any person having an estate or interest in the house. 5
- (3) Where part of a house is excluded from the provisions of an interim or final management order under section 87(8) or 97(7), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of carrying out works in the part of the house which is subject to the order. 10
- (4) If, after receiving reasonable notice of the intended action, any occupier of the whole or part of the house prevents any officer, employee, agent or contractor of the local housing authority from carrying out work in the house, a magistrates' court may order him to permit to be done on the premises anything which the authority consider to be necessary. 15
- (5) A person who fails to comply with an order of the court under subsection (4) commits an offence.
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 20

*Overcrowding notices***113 Service of overcrowding notices**

- (1) This section applies to any HMO—
 - (a) in relation to which no interim or final management order is in force; and 25
 - (b) which is not required to be licensed under Part 2.
- (2) The local housing authority may serve an overcrowding notice on one or more relevant persons if, having regard to the rooms available, it considers that an excessive number of persons is being, or is likely to be, accommodated in the HMO concerned. 30
- (3) The authority must, at least 7 days before serving an overcrowding notice—
 - (a) inform in writing every relevant person (whether or not the person on whom the authority is to serve the notice) of their intention to serve the notice; and 35
 - (b) ensure that, so far as is reasonably possible, every occupier of the HMO concerned is informed of the authority's intention.
- (4) The authority must also give the persons informed under subsection (3) an opportunity of making representations about the proposal to serve an overcrowding notice. 40
- (5) An overcrowding notice becomes operative, if no appeal is brought under section 117, at the end of the period of 21 days from the date of service of the notice.

- (6) If no appeal is brought under section 117, an overcrowding notice is final and conclusive as to matters which could have been raised on such an appeal.
- (7) A person who contravenes an overcrowding notice commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale. 5
- (8) In proceedings for an offence under subsection (7) it is a defence that the person had a reasonable excuse for contravening the notice.
- (9) In this section “relevant person” means a person who is, to the knowledge of the local housing authority – 10
- (a) a person having an estate or interest in the HMO concerned, or
 - (b) a person managing or having control of it.

114 Contents of overcrowding notices

- (1) An overcrowding notice must state in relation to each room in the HMO concerned –
- (a) what the local housing authority consider to be the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time; or 15
 - (b) that the local housing authority consider that the room is unsuitable to be occupied as sleeping accommodation.
- (2) An overcrowding notice may specify special maxima applicable where some or all of the persons occupying a room are under such age as may be specified in the notice. 20
- (3) An overcrowding notice must contain –
- (a) the requirement prescribed by section 115 (not to permit excessive number of persons to sleep in the house in multiple occupation); or 25
 - (b) the requirement prescribed by section 116 (not to admit new residents if number of persons is excessive).
- (4) The local housing authority may at any time –
- (a) withdraw an overcrowding notice which has been served on any person and which contains the requirement prescribed by section 116, and 30
 - (b) serve on him instead an overcrowding notice containing the requirement prescribed by section 115.

115 Requirement as to overcrowding generally

- (1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from – 35
- (a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice; or
 - (b) permitting persons to occupy the HMO as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as husband and wife sleeping in the same room. 40
- (2) For the purposes of subsection (1)(b) –
- (a) children under the age of 12 are to be disregarded; and

- (b) it must be assumed that the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

116 Requirement as to new residents

- (1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from – 5
- (a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice; or
- (b) permitting a new resident to occupy any part of the HMO as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as husband and wife sleeping in the same room. 10
- (2) In subsection (1) “new resident” means a person who was not an occupier of the house in multiple occupation immediately before the notice was served.
- (3) For the purposes of subsection (1)(b) – 15
- (a) children under the age of 12 are to be disregarded; and
- (b) it must be assumed that the persons occupying any part of the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded. 20

117 Appeals against overcrowding notices

- (1) A person aggrieved by an overcrowding notice may appeal to a county court within the period of 21 days beginning with the date of service of the notice.
- (2) Such an appeal – 25
- (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.
- Paragraph (a) applies despite any provision of Civil Procedure Rules.
- (3) On an appeal the court may by order confirm, quash or vary the notice.
- (4) If an appeal is brought, the notice does not become operative until – 30
- (a) a decision is given on the appeal which confirms the notice and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought; or
- (b) if an appeal is brought to the Court of Appeal, a decision is given on the appeal which confirms the notice. 35
- (5) For the purposes of subsection (4) –
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against; and
- (b) references to a decision which confirms the notice are to a decision which confirms it with or without variation. 40

118 Revocation and variation of overcrowding notices

- (1) The local housing authority may at any time, on the application of a relevant person –

- (a) revoke an overcrowding notice; or
 (b) vary it so as to allow more people to be accommodated in the HMO concerned.
- (2) The applicant may appeal to a county court if –
 (a) the local housing authority refuse an application under subsection (1); or
 (b) do not notify the applicant of their decision within the period of 35 days beginning with the making of the application (or within such further period as the applicant may in writing allow). 5
- (3) Section 117(2) applies to such an appeal as it applies to an appeal under that section. 10
- (4) On an appeal the court may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.
- (5) In this section “relevant person” means a person who is, to the knowledge of the local housing authority –
 (a) a person having an estate or interest in the HMO concerned, or
 (b) a person managing or having control of it. 15

Index

119 Index of defined expressions: Part 4

The following table shows where expressions used in this Part are defined or otherwise explained. 20

<i>Expression</i>	<i>Provision of this Act</i>	
Appropriate national authority	Section 196(1)	
Final management order	Section 86(4)	
Health	Section 2(5)	25
HMO	Section 86(6)	
The house	Section 86(7) or 88(8)	
Immediate landlord	Section 93(5) or 101(5)	
Interim management order	Section 86(3)	
Landlord	Section 197(3)	30
Lease, lessee, etc.	Section 197(1) to (4)	
Licence (to occupy premises)	Section 197(9)	
Local housing authority	Section 196(2) to (5)	
Mortgage, mortgagee	Section 93(6)	
Occupier (and related expressions)	Section 197(6)	35

<i>Expression</i>	<i>Provision of this Act</i>	
Owner	Section 197(7)	
Part 3 house	Section 86(6)	
Person having control	Section 198(1) and (2)	
Person having estate or interest	Section 197(8)	5
Person managing	Section 198(3)	
Tenancy, tenant, etc.	Section 197(1) to (4)	

PART 5

HOME INFORMATION PACKS

Preliminary 10

120 Meaning of “residential property” and “home information pack”

- (1) In this Part—
- “residential property” means premises in England and Wales consisting of a single dwelling-house, including any ancillary land; and
 - “dwelling-house” means a building or part of a building occupied or intended to be occupied as a separate dwelling (and includes one that is being or is to be constructed). 15
- (2) References in this Part to a home information pack, in relation to a residential property, are to a collection of documents relating to the property or the terms on which it is or may become available for sale. 20

121 Meaning of “on the market” and related expressions

- (1) A residential property is put on the market when the fact that it is or may become available for sale is, with a view to marketing the property, first made public in England and Wales by or on behalf of the seller.
- (2) A residential property which has been put on the market is to be regarded as remaining on the market until it is taken off the market or sold. 25
- (3) A fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or to a section of the public.

122 Acting as estate agent 30

- (1) A person acts as estate agent for the seller of a residential property if he does anything, in the course of a business in England and Wales, in pursuance of marketing instructions from the seller.
- (2) For this purpose—
- “business in England and Wales” means a business carried on (in whole or in part) from a place of business in England and Wales; and 35

“marketing instructions” means instructions to carry out any activities with a view to –

- (a) effecting the introduction to the seller of a person wishing to buy the property; or
 - (b) selling the property by auction or tender. 5
- (3) It is immaterial for the purposes of this section whether or not a person describes himself as an estate agent.

Responsibility for marketing residential properties

123 Responsibility for marketing: general

- (1) References in this Part to a responsible person, in relation to a residential property, are to any person who is for the time being responsible for marketing the property. 10
- (2) Sections 124 and 125 identify for the purposes of this Part –
 - (a) the person or persons who are responsible for marketing a residential property which is being or has been put on the market in England and Wales; and 15
 - (b) when the responsibility of any such person arises and ceases.
- (3) Only the seller or a person acting as estate agent for the seller may be responsible for marketing the property.
- (4) A person may be responsible for marketing the property on more than one occasion. 20

124 Responsibility of person acting as estate agent

- (1) A person acting as estate agent becomes responsible for marketing the property when action taken by him or on his behalf –
 - (a) puts the property on the market; or 25
 - (b) makes public the fact that the property is on the market.
- (2) That responsibility ceases when the following conditions are satisfied, namely –
 - (a) his contract with the seller is terminated (whether by the withdrawal of his instructions or otherwise); 30
 - (b) he has ceased to take any action which makes public the fact that the property is on the market; and
 - (c) any such action being taken on his behalf has ceased.
- (3) Any responsibility arising under this section also ceases when the property is taken off the market or sold. 35

125 Responsibility of the seller

- (1) The seller becomes responsible for marketing the property when action taken by him or on his behalf –
 - (a) puts the property on the market; or
 - (b) makes public the fact that the property is on the market. 40

- (2) That responsibility ceases when the following conditions are satisfied, namely –
- (a) there is at least one person acting as his estate agent who is responsible for marketing the property;
 - (b) the seller has ceased to take any action which makes public the fact that the property is on the market; and
 - (c) any such action being taken on the seller’s behalf has ceased.
- (3) In this section the references to action taken on behalf of the seller exclude action taken by or on behalf of a person acting as his estate agent.
- (4) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

Duties of a responsible person where a property is on the market

126 Application of sections 127 to 129

- (1) Where a residential property is on the market in England and Wales, a person responsible for marketing the property is subject to the duties relating to home information packs that are imposed by sections 127 to 129.
- (2) Those duties apply from the time the person becomes responsible until his responsibility ceases, subject to any exception provided for in those sections.

127 Duty to have a home information pack

- (1) It is the duty of a responsible person to have in his possession or under his control a home information pack for the property which complies with the requirements of any regulations under section 133.
- (2) That duty does not apply to the seller at any time when –
- (a) there is another person who is responsible for marketing the property under section 124; and
 - (b) the seller believes on reasonable grounds that the other responsible person has a home information pack for the property in his possession or under his control which complies with the requirements of any regulations under section 133.

128 Duty to provide copy of home information pack on request

- (1) Where a potential buyer makes a request to a responsible person for a copy of the home information pack, or of a document (or part of a document) which is or ought to be included in that pack, it is the duty of the responsible person to comply with that request within the permitted period.
- (2) The responsible person does not comply with that duty unless –
- (a) he provides the potential buyer with a document which is –
 - (i) a copy of the home information pack for the property as it stands at the time when the request is made, or
 - (ii) a copy of a document (or part of a document) which is included in that pack,
 as the case may be; and

- (b) that pack or document complies with the requirements of any regulations under section 133 at that time.
 - (3) In subsection (2) “the home information pack” means the home information pack intended by the responsible person to be the one required by section 127.
 - (4) That duty does not apply if, when the request is made, the responsible person believes on reasonable grounds that the person making the request –
 - (a) is unlikely to have sufficient means to buy the property in question;
 - (b) is not genuinely interested in buying a property of a general description which applies to the property; or
 - (c) is not a person to whom the seller is likely to be prepared to sell the property.
- Nothing in this subsection authorises the doing of anything which constitutes an unlawful act of discrimination.
- (5) Subsection (4) does not apply if the responsible person knows or suspects that the person making the request is an officer of an enforcement authority.
 - (6) That duty does not apply where the responsible person is the seller if –
 - (a) when the request is made –
 - (i) there is another person who is responsible for marketing the property under section 124; and
 - (ii) the seller believes on reasonable grounds that the other responsible person has a home information pack for the property in his possession or under his control which complies with the requirements of any regulations under section 133; and
 - (b) he takes reasonable steps to inform the potential buyer that the request should be made to the other responsible person.
 - (7) The responsible person may –
 - (a) charge a sum not exceeding the reasonable cost of making and, if requested, sending a paper copy of the pack or document; and
 - (b) require that the charge is paid before the copy is provided.
 - (8) The permitted period is the period of fourteen days beginning with –
 - (a) the day on which the request is made; or
 - (b) if a charge under subsection (7) is payable in advance but is paid after that day, the day on which payment is received.
 - (9) A person does not comply with the duty under this section by providing a copy in electronic form unless the potential buyer consents to receiving it in that form.

129 Duty to ensure authenticity of documents in other situations

- (1) Where a responsible person provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be a copy of the home information pack for the property, or a document (or part of a document) included in that pack, the responsible person is under a duty to ensure that the document is authentic.
- (2) A document is not authentic for the purposes of subsection (1) unless, at the time when it is provided or inspected –

- (a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and
 - (b) that pack or document complies with the requirements of any regulations under section 133. 5
- (3) In subsection (2) “the home information pack” means the pack intended by the responsible person to be the one required by section 127.
- (4) The duty under this section does not apply to anything provided in response to a request under section 128.

Other duties of person acting as estate agent 10

130 Other duties of person acting as estate agent

- (1) This section applies to a person acting as estate agent for the seller of a residential property where –
- (a) the property is not on the market; or
 - (b) the property is on the market but the person so acting is not a person responsible for marketing the property. 15
- (2) It is the duty of a person to whom this section applies to have in his possession or under his control, when any qualifying action is taken by him or on his behalf, a home information pack for the property which complies with the requirements of any regulations under section 133. 20
- (3) In subsection (2) “qualifying action” means action taken with a view to marketing the property, which –
- (a) communicates to any person in England and Wales the fact that the property is or may become available for sale; but
 - (b) does not put the property on the market or make public the fact that the property is on the market. 25
- (4) Where a person to whom this section applies provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be –
- (a) a copy of the home information pack for the property; or
 - (b) a copy of a document (or part of a document) included in that pack; 30
- it is his duty to ensure that it is an authentic copy.
- (5) A document is not authentic for the purposes of subsection (4) unless, at the time when it is provided or inspected –
- (a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and
 - (b) that pack or document complies with the requirements of any regulations under section 133. 35
- (6) In subsection (5) “the home information pack” means the home information pack intended by the person to whom this section applies to be the one required by subsection (2). 40

Exceptions from the duties

131 Residential properties not available with vacant possession

- (1) The duties under sections 127 to 130 do not apply in relation to a residential property at any time when it is not available for sale with vacant possession.
- (2) But for the purposes of this Part a residential property shall be presumed to be available with vacant possession, at any time when any of those duties would apply in relation to the property if it is so available, unless the contrary appears from the manner in which the property is being marketed at that time. 5

132 Power to provide for further exceptions

The Secretary of State may by regulations provide for other exceptions from any duty under sections 127 to 130 in such cases and circumstances, and to such extent, as may be specified in the regulations. 10

Contents of home information packs

133 Contents of home information packs

- (1) The Secretary of State may make regulations prescribing – 15
 - (a) the documents which are required or authorised to be included in the home information pack for a residential property; and
 - (b) particular information which is required or authorised to be included in, or which is to be excluded from, any such document.
- (2) A document prescribed under subsection (1) must be one that the Secretary of State considers would disclose relevant information. 20
- (3) Any particular information required or authorised to be included in a prescribed document must be information that the Secretary of State considers to be relevant information.
- (4) In this section “relevant information” means information about any matter connected with the property (or the sale of the property) that would be of interest to potential buyers. 25
- (5) Without prejudice to the generality of subsection (4), the information which the Secretary of State may consider to be relevant information includes any information about – 30
 - (a) the interest which is for sale and the terms on which it is proposed to sell it;
 - (b) the title to the property;
 - (c) anything relating to or affecting the property that is contained in – 35
 - (i) a register required to be kept by or under any enactment (whenever passed); or
 - (ii) records kept by a person who can reasonably be expected to give information derived from those records to the seller at his request (on payment, if required, of a reasonable charge);
 - (d) the physical condition of the property (including any particular characteristics or features of the property); 40
 - (e) the energy efficiency of the property;

-
- (f) any warranties or guarantees subsisting in relation to the property;
 - (g) any taxes, service charges or other charges payable in relation to the property.
- (6) The regulations may require or authorise the home information pack to include— 5
- (a) replies the seller proposes to give to prescribed pre-contract enquiries; and
 - (b) documents or particular information indexing or otherwise explaining the contents of the pack.
- (7) The regulations may require a prescribed document— 10
- (a) to be in such form as may be prescribed; and
 - (b) to be prepared by a person of a prescribed description on such terms (if any) as may be prescribed.
- (8) The terms mentioned in subsection (7)(b) may include terms which enable provisions of the contract under which the document is to be prepared to be enforced by— 15
- (a) a potential or actual buyer;
 - (b) a mortgage lender; or
 - (c) any other person involved in the sale of the property who is not a party to that contract. 20
- (9) The regulations may— 25
- (a) provide for the time at which any document is to be included in or removed from the home information pack;
 - (b) make incidental, supplementary and transitional provision; and
 - (c) make different provision for different areas, for different descriptions of properties or for other different circumstances (including the manner in which a residential property is marketed).
- (10) In this section “prescribed” means prescribed by regulations under this section.

134 Home condition reports

- (1) Regulations under section 133 may make the provision mentioned in this section in relation to any description of document dealing with matters mentioned in section 133(5)(d) or (e) (reports on physical condition or energy efficiency) which is to be included in the home information pack. 30
- (2) In this section “home condition report” means a document of that description.
- (3) The regulations may require a home condition report to be made by an individual who is a member of an approved certification scheme following an inspection carried out by him in accordance with the provisions of the scheme. 35
- (4) The regulations shall, if the provision mentioned in subsection (3) is made, make provision for the approval by the Secretary of State of one or more suitable certification schemes (and for the withdrawal by him of any such approval). 40
- (5) The regulations shall require the Secretary of State to be satisfied, before approving a certification scheme, that the scheme contains appropriate provision—

- (a) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to produce home condition reports;
 - (b) for ensuring that members of the scheme have in force suitable indemnity insurance; 5
 - (c) for facilitating the resolution of complaints against members of the scheme;
 - (d) for the registration of all home condition reports made by members of the scheme; and
 - (e) for such other purposes as may be specified in the regulations. 10
- (6) The regulations may require or authorise an approved certification scheme to contain provision about any matter relating to the home condition reports with which the scheme is concerned (including the terms on which members of the scheme may undertake to produce a home condition report).
- (7) Nothing in this section limits the power under section 133 to make provision about home condition reports in the regulations. 15

Enforcement

135 Enforcement authorities

- (1) Every local weights and measures authority is an enforcement authority for the purposes of this Part. 20
- (2) It is the duty of each enforcement authority to enforce this Part in their area.

136 Power to require production of home information packs

- (1) An authorised officer of an enforcement authority may require a person who appears to him to be or to have been subject to the duty under section 127 or 130(2), in relation to a residential property, to produce for inspection a copy of, or of any document included in, the home information pack for that property. 25
- (2) The power conferred by subsection (1) includes power –
 - (a) to require the production in a visible and legible documentary form of any document included in the home information pack in question which is held in electronic form; and 30
 - (b) to take copies of any document produced for inspection.
- (3) A requirement under this section may not be imposed more than six months after the last day on which the person concerned was subject to the duty under section 127 or 130(2) in relation to the property (as the case may be).
- (4) Subject to subsection (5), it is the duty of a person subject to such a requirement to comply with it within the period of 7 days beginning with the day after that on which it is imposed. 35
- (5) A person is not required to comply with such a requirement if he has a reasonable excuse for not complying with the requirement.
- (6) In this section “the home information pack” means – 40
 - (a) where a requirement under this section is imposed on a person at a time when he is subject to the duty under section 127 or 130(2), the home

	information pack intended by him to be the one he is required to have at that time; or	
	(b) in any other case, the home information pack intended by the person concerned, when he was last subject to the duty under section 127 or 130(2), to be the one he was required to have at that time.	5
137	Penalty charge notices	
(1)	An authorised officer of an enforcement authority may, if he believes that a person has committed a breach of any duty under sections 127 to 130 or section 136(4), give a penalty charge notice to that person.	
(2)	A penalty charge notice may not be given after the end of the period of six months beginning with the day on which the breach of duty was committed.	10
(3)	Schedule 7 (which makes further provision about penalty charge notices) has effect.	
138	Offences relating to enforcement officers	
(1)	A person who obstructs an officer of an enforcement authority acting in pursuance of section 136 is guilty of an offence.	15
(2)	A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 136 or 137 is guilty of an offence.	
(3)	A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.	20
139	Right of private action	
(1)	This section applies to a potential buyer of a residential property which is on the market when the conditions mentioned in subsections (2) to (4) are met.	
(2)	The first condition is that he has requested a copy of a prescribed document included in the home information pack for the property (whether by requesting a copy of that document or a copy of the whole pack) from a responsible person who is subject to the duty under section 128 in relation to the request.	25
(3)	The second condition is that the permitted period under section 128(8) has ended.	30
(4)	The third condition is that the potential buyer has not been provided with an authentic copy of the prescribed document.	
(5)	A copy of a prescribed document is not authentic for the purposes of subsection (4) unless –	
	(a) it is a copy of a document included in the home information pack for the property as it stood at the time the request was made; and	35
	(b) the document so included complies with the requirements of any regulations under section 133 at that time.	
(6)	In subsection (5) “the home information pack” means the home information pack intended by the responsible person to be the one required by section 127.	40

- (7) If the potential buyer commissions his own version of the prescribed document at a time when all those conditions are met, he is entitled to recover from the responsible person any reasonable fee paid by him for it.
- (8) In this section “prescribed document” means a document (being one required to be included in the home information pack by regulations under section 133) which is prescribed by regulations made by the Secretary of State for the purposes of this section. 5

Supplementary

140 Restrictions on disclosure or use of home information pack

The Secretary of State may by regulations make provision restricting the disclosure, and use which may be made, of home information packs (or information obtained from such packs). 10

141 Application of Part to sub-divided buildings

- (1) This section applies where –
 - (a) two or more dwelling-houses in a sub-divided building are marketed for sale (with any ancillary land) as a single property; and 15
 - (b) any one or more of those dwelling-houses is not available for sale (with any ancillary land) as a separate residential property.
- (2) This Part applies to each dwelling-house comprised in the property that is not available for sale separately as if it were being marketed for sale (with any ancillary land) as a separate residential property. 20
- (3) In this section “sub-divided building” means a building or part of a building originally constructed or adapted for use as a single dwelling which has been divided (on one or more occasions) into separate dwelling-houses.

142 Office of Fair Trading 25

- (1) An enforcement authority may notify the Office of Fair Trading of any breach of duty under this Part appearing to the authority to have been committed by a person acting as estate agent.
- (2) An enforcement authority shall notify the Office of Fair Trading of –
 - (a) any penalty charge notice given by an officer of the authority under section 137; 30
 - (b) any notice given by the authority confirming or withdrawing a penalty charge notice; and
 - (c) the result of any appeal from the confirmation of a penalty charge notice. 35
- (3) The Estate Agents Act 1979 (c. 38) applies in relation to a person who has committed a breach of duty under this Part in the course of estate agency work (within the meaning of that Act) as it applies in relation to a person who has engaged in a practice such as is mentioned in section 3(1)(d) of that Act in the course of such work. 40

143 Grants

- (1) The Secretary of State may make grants towards expenditure incurred by any person in connection with—
- (a) the development of proposals for any provision to be made by regulations under section 133; or 5
 - (b) the development of schemes which are intended to be certification schemes for the purposes of any provision made or expected to be made in regulations under section 133 by virtue of section 134.
- (2) A grant under this section may be made on conditions, which may include (among other things)— 10
- (a) conditions as to the purposes for which the grant or any part of it may be used; and
 - (b) conditions requiring the repayment of the grant or any part of it in such circumstances as may be specified in the conditions.

144 Interpretation of Part 5

15

- (1) In this Part—
- “ancillary land”, in relation to a dwelling-house or a sub-divided building, means any land intended to be occupied and enjoyed together with that dwelling-house or building;
 - “long lease” means — 20
 - (a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; or
 - (b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease; 25
 and for this purpose “lease” does not include a mortgage term;
 - “potential buyer” means a person who claims that he is or may become interested in buying a residential property;
 - “sale”, in relation to a residential property, means a disposal, or agreement to dispose, by way of sale of — 30
 - (a) the freehold interest;
 - (b) the interest under a long lease;
 - (c) an option to acquire the freehold interest or the interest under a long lease; 35
 and “seller” means a person contemplating disposing of such an interest (and related expressions shall be construed accordingly).
- (2) Any reference in the definition of “sale” to the disposal of an interest of a kind mentioned in that definition includes a reference to the creation of such an interest. 40
- (3) A document which is not in electronic form is only to be regarded as being under the control of a person while it is in the possession of another if he has the right to take immediate possession of the document on demand (and without payment).
- (4) A document held in electronic form is to be regarded for the purposes of this Part as being in a person’s possession or under his control if (and only if) he is readily able (using equipment available to him)— 45

- (a) to view the document in a form that is visible and legible; and
- (b) to produce copies of it in a visible and legible documentary form.

145 Index of defined expressions: Part 5

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions inserted in the right-hand column.

5

<i>Expression</i>	<i>Provision of this Act</i>	
Acting as estate agent for the seller	Section 122	
Ancillary land	Section 144(1)	
Control of documents	Section 144(3) and (4)	10
Dwelling-house	Section 120(1)	
Enforcement authority	Section 135	
Home information pack	Section 120(2)	
Long lease	Section 144(1)	
Make public	Section 121(3)	15
Possession of electronic documents	Section 144(4)	
Potential buyer	Section 144(1)	
Putting on the market	Section 121(1)	
Remaining on the market	Section 121(2)	
Residential property	Section 120(1)	20
Responsible person	Section 123(1)	
Sale (and related expressions)	Section 144(1)	
Seller (and related expressions)	Section 144(1)	

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

Introductory tenancies 5

146 Extension of introductory tenancies

- (1) Part 5 of the Housing Act 1996 (c. 52) (conduct of tenants) is amended as follows.
- (2) In section 125(2) (trial period for introductory tenancy to be one year) for “subject as follows” substitute “but this is subject to subsections (3) and (4) and to section 125A (extension of trial period by 6 months).” 10
- (3) After section 125 insert –

“125A Extension of trial period by 6 months

 - (1) If both of the following conditions are met in relation to an introductory tenancy, the trial period is extended by 6 months. 15
 - (2) The first condition is that the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date.
 - (3) The second condition is that either –
 - (a) the tenant has not requested a review under section 125B in accordance with subsection (1) of that section, or 20
 - (b) if he has, the decision on the review was to confirm the landlord’s decision to extend the trial period.
 - (4) A notice of extension is a notice –
 - (a) stating that the landlord has decided that the period for which the tenancy is to be an introductory tenancy should be extended by 6 months, and 25
 - (b) complying with subsection (5).
 - (5) A notice of extension must –
 - (a) set out the reasons for the landlord’s decision, and
 - (b) inform the tenant of his right to request a review of the landlord’s decision and of the time within which such a request must be made. 30
 - (6) In this section and section 125B “the original expiry date” means the last day of the period of one year that would apply as the trial period apart from this section. 35

125B Review of decision to extend trial period

- (1) A request for review of the landlord’s decision that the trial period for an introductory tenancy should be extended under section 125A must be made before the end of the period of 14 days beginning with the day on which the notice of extension is served. 40

-
- (2) On a request being duly made to it, the landlord shall review its decision.
- (3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section. 5
Nothing in the following provisions affects the generality of this power.
- (4) Provision may be made by regulations –
(a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and 10
(b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (5) The landlord shall notify the tenant of the decision on the review. If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision. 15
- (6) The review shall be carried out and the tenant notified before the original expiry date.”
- (4) The amendments made by this section do not apply in relation to any tenancy entered into before, or in pursuance of an agreement made before, the day on which this section comes into force. 20

Right to buy: when exercisable

147 Extension of qualifying period for right to buy

- (1) In section 119(1) of the Housing Act 1985 (c. 68) (qualifying period for right to buy) for “two” there is substituted “five”. 25
- (2) In subsection (2)(a) of section 129 of that Act (discount) –
(a) for “two” there is substituted “five”; and
(b) for “32 per cent” there is substituted “35 per cent”.
- (3) In subsection (2)(b) of that section –
(a) for “two”, where it appears for the second time, there is substituted “five”; and 30
(b) for “44 per cent” there is substituted “50 per cent”.
- (4) In subsection (2A)(b) of that section for “two” there is substituted “five”.
- (5) The amendments made by this section do not apply in relation to a secure tenancy which begins before, or in pursuance of a contract made before, the day on which this section comes into force. 35

148 Exceptions to the right to buy: houses due to be demolished

- (1) In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy) after

paragraph 12 insert –

“Dwelling-house due to be demolished within 18 months

- 13 (1) The right to buy does not arise if a demolition notice is in force in respect of the dwelling-house.
- (2) A “demolition notice” is a notice – 5
- (a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
- (b) setting out the reasons why the landlord intends to demolish the relevant premises, 10
- (c) specifying –
- (i) the date by which he intends to demolish those premises (“the proposed demolition date”), and
- (ii) the date when the notice will cease to be in force (unless extended under paragraph 14), and 15
- (d) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.
- (3) The proposed demolition date must fall within the period of 18 months beginning with the date of service of the notice on the tenant.
- (4) For the purposes of this paragraph a demolition notice is in force in respect of the dwelling-house concerned during the period of 18 months mentioned in sub-paragraph (3) if the conditions in sub-paragraphs (5) and (6) are satisfied. 20
- (5) If –
- (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and 25
- (b) the landlord intends to demolish the whole of the building, the landlord must have served a demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as “the occupier”). 30
- An accidental omission to serve a demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.
- (6) A notice stating that the landlord intends to demolish the relevant premises must have appeared – 35
- (a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and
- (b) in any newspaper published by the landlord, and
- (c) on the landlord’s website (if he has one). 40
- (7) The notice mentioned in sub-paragraph (6) must contain the following information –
- (a) sufficient information to enable identification of the premises that the landlord intends to demolish,
- (b) the reasons why the landlord intends to demolish those premises, 45
- (c) the proposed demolition date,

- (d) the date when any demolition notice or notices relating to those premises will cease to be in force, and
 - (e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them. 5
- (8) In this paragraph and paragraph 14 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, includes a reference to a superior landlord.
- 14 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a demolition notice is in force in respect of a dwelling-house. 10
- (2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such requirements relating to the service of further notices as are specified in the direction. 15
- (3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).
- (4) If, while a demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice (“a revocation notice”) on the tenant which informs him – 20
 - (a) of the landlord’s decision, and
 - (b) that the demolition notice is revoked as from the date of service of the revocation notice. 25
- (5) If, while a demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice (“a revocation notice”) on the tenant which informs him – 30
 - (a) of the Secretary of State’s conclusion, and
 - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- Section 169 applies in relation to the Secretary of State’s power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section. 35
- (6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State’s intention to serve the revocation notice.
- (7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice. 40
- (8) Once a demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further demolition notice may be served in respect of it during the period of 5 years following the time when the notice ceases to be in force, unless – 45
 - (a) it is served with the consent of the Secretary of State, and
 - (b) it states that it is so served.

-
- 15 (1) Any notice required by paragraph 13 or 14 to be served on a person may be served on him –
- (a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body. 5
- (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be –
- (a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and 10
 - (b) in any other case, the last known address of that person.”
- (2) The amendment made by this section does not apply in any case where the tenant’s notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force. 15

Right to buy: discounts

149 Repayment of discount: periods and amounts applicable

- (1) Section 155 of the Housing Act 1985 (c. 68) (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).
- (2) For subsections (2) and (3) substitute – 20
- “(2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155A on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance or grant. 25
- (3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155B on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the making of the initial payment.” 30
- (3) In subsection (3A) (modifications where tenant has served operative notice of delay) for “three years” substitute “five years”.
- (4) After section 155 insert – 35
- “155A Amount of discount which may be demanded by landlord: right to buy**
- (1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section. 40
- (2) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which

- under section 127 was taken as the value of the dwelling-house at the relevant time.
- (3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth. 5
- (4) This section is subject to section 155C.
- 155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms**
- (1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section. 10
- (2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of –
- (a) the initial payment,
 - (b) any interim payment made before the disposal, or 15
 - (c) the final payment if so made,
- reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal.”
- (5) The amendments made by this section do not apply in any case where the tenant’s notice under section 122 of the Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force. 20
- (6) Subsection (7), however, applies in any such case if the first relevant disposal to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force. 25
- (7) In the following provisions –
- (a) section 155(2) and (3) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and
 - (b) any covenant for repayment of discount,
- any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand. 30
- (8) In subsections (6) and (7) “covenant for repayment of discount” means the covenant contained in a conveyance or grant in accordance with section 155 of that Act. 35
- 150 Repayment of discount: increase attributable to home improvements to be disregarded**
- (1) After section 155B of the Housing Act 1985 (inserted by section 149 of this Act) insert –
- “155C Increase attributable to home improvements 40**
- (1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house –

-
- (a) by the person by whom the disposal is, or is to be, made, and
 (b) after the conveyance or grant and before the disposal,
 shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer. 5
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless –
- (a) it is reasonably practicable for him to do so; and
 (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made. 10
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.”
- (2) In section 181 of that Act (jurisdiction of county court) for “and 158” substitute “, 155C and 158”. 15

151 Deferred resale agreements

- (1) After section 163 of the Housing Act 1985 (c. 68) insert –
- “163A Treatment of deferred resale agreements for purposes of section 155**
- (1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time. 20
- (2) In subsection (1) “the appropriate time” means –
- (a) the time when the agreement is entered into, or
 (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period. 25
- (3) An agreement is within this subsection if it is an agreement between the secure tenant or his successor in title and any other person –
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy, 30
 (b) which is made before the end of the discount repayment period, and
 (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period. 35
- (4) Such an agreement is within subsection (3) –
- (a) whether or not the date on which the disposal is to take place is specified in the agreement, and 40
 (b) whether or not any requirement to make the disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide –

- (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
 - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5) – 5
- (a) may make different provision with respect to different cases or descriptions of case; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 10
- (7) In this section –
- “agreement” includes arrangement;
 - “the discount repayment period” means the period of three or five years that applies for the purposes of section 155(2) or (3) (depending on whether the tenant’s notice under section 122 was given before or on or after the date of the coming into force of section 149 of the Housing Act 2004).” 15
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force. 20

Right to buy: landlord’s right of first refusal

152 Right of first refusal for landlord etc.

- (1) After section 156 of the Housing Act 1985 (c. 68) insert –
- “156A Right of first refusal for landlord etc.**
- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant. 25
 - (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal. 30
 - (3) In subsection (2) “the prescribed conditions” means such conditions as may be prescribed by regulations under this section.
 - (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on – 35
 - (a) a landlord who has conveyed a freehold or granted a lease to a person (“the former tenant”) in pursuance of this Part, or
 - (b) such other person as is determined in accordance with the regulations,a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 158. 40
 - (5) The disposals within this subsection are –
 - (a) a reconveyance or conveyance of the dwelling-house; and
 - (b) a surrender or assignment of the lease.

-
- (6) Regulations under this section may, in particular, make provision –
- (a) for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;
 - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted; 5
 - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer; 10
 - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the former tenant and any other prescribed person;
 - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person; 15
 - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
 - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the former tenant is able to make a disposal on the open market; 20
 - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (7) In subsection (6) any reference to the former tenant is a reference to the former tenant or his successor in title. 25
Nothing in that subsection affects the generality of subsection (4).
- (8) Regulations under this section –
- (a) may make different provision with respect to different cases or descriptions of case; and 30
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A disposal in breach of the covenant mentioned in subsection (2) shall be void.” 35
- (2) In section 157 of that Act (restriction on disposal of dwelling-houses in National Parks etc.), omit the following –
- (a) in subsection (2), the words “, subject to subsection (4),”; and
 - (b) subsections (4) and (5) (which provide for a landlord’s right of first refusal). 40
- (3) In section 158 of that Act (consideration for conveyance or surrender under section 157) –
- (a) in the sidenote, for “reconveyance or surrender under section 157” substitute “disposal under section 156A”; 45
 - (b) for subsection (1) substitute –
 - “(1) The consideration for such a disposal as is mentioned in section 156A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the dwelling-

- house at the time when the offer is made (as determined in accordance with regulations under that section).”;
- (c) in subsection (3), for “the landlord accepts the offer,” substitute “the offer is accepted in accordance with regulations under section 156A,”; and 5
 - (d) in subsection (4), for “to reconvey or surrender” substitute “(as determined in accordance with regulations under section 156A).”
- (4) The amendments made by this section do not apply in relation to a conveyance of the freehold or grant of a lease in pursuance of Part 5 of that Act if the notice under section 122 of the Act (tenant’s notice claiming to exercise right to buy) was served before the day on which this section comes into force. 10
- (5) Accordingly, nothing in this section affects –
- (a) the operation of a limitation contained in such a conveyance or grant in accordance with section 157(4) of that Act, or
 - (b) the operation, in relation to such a limitation, of section 157(6) (so far as it renders a disposal in breach of covenant void) or section 158 (consideration payable) of that Act. 15

Right to buy: information

153 Information to help tenants decide whether to exercise right to buy etc.

- (1) After section 121 of the Housing Act 1985 (c. 68) insert – 20
- “121A Information to help tenants decide whether to exercise right to buy etc.**
- (1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State). 25
 - (2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms. 30
 - (3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters –
 - (a) shall be such as the body concerned considers appropriate, but
 - (b) shall be in a form which the body considers best suited to explaining those matters in simple terms. 35
 - (4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it –
 - (a) is kept up to date so far as is reasonably practicable, and
 - (b) reflects any changes in the matters for the time being specified in an order under this section. 40
 - (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 45

121B Provision of information

- (1) This section sets out when the document prepared by a body under section 121 is to be published or otherwise made available.
- (2) The body shall –
- (a) publish the document (whether in its original or a revised form), and
 - (b) supply copies of it to the body’s secure tenants, at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.
- (3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.
- (4) The copies must be made available for that purpose –
- (a) at the body’s principal offices, and
 - (b) at such other places as it considers appropriate, at reasonable hours.
- (5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).
- (6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2)(a).
- (7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 104(1) (provision of information about tenancies), in paragraph (b) (information about Part 4 and Part 5), omit “and Part V (the right to buy)”.

Right to buy: termination of rent to mortgage scheme

- 154 Termination of rent to mortgage scheme**
- (1) Before section 143 of the Housing Act 1985 (c. 68) insert –
- “142A Termination of the right to acquire on rent to mortgage terms**
- (1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.
 - (2) In this section “the termination date” means the date falling 8 months after the date of the passing of the Housing Act 2004.”
- (2) In section 143(1) of that Act after “sections” insert “142A,”.
- (3) In section 144(1) of that Act for “A secure tenant” substitute “Subject to section 142A, a secure tenant”.

Suspension of certain rights in connection with anti-social behaviour

155 Secure tenancies: withholding of consent to mutual exchange

- (1) In Schedule 3 to the Housing Act 1985 (c. 68) (grounds for withholding consent to assignment by way of exchange) after Ground 2 insert –

“Ground 2A 5

Either –

(a) a relevant order or suspended Ground 2 or 14 possession order is in force, or

(b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made, 10

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means –

an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour); 15

an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);

an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords); or 20

an injunction to which a power of arrest is attached by virtue of section 43 of the Anti-social Behaviour Act 2003.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988. 25

A “Ground 2 or 14 possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.” 30

- (2) The amendment made by this section applies in relation to applications for consent under section 92 of that Act (assignments by way of exchange) which are made on or after the day on which this section comes into force. 35

156 Right to buy: suspension of landlord’s obligation to complete

- (1) In section 138 of the Housing Act 1985 (duty of landlord to convey freehold or grant lease) after subsection (2) insert –

“(2A) If an application is pending before any court for a demotion order or Ground 2 possession order to be made in respect of the tenant, the landlord is not bound to comply with subsection (1) until such time (if any) as – 40

(a) the application is determined without a demotion order, or (as the case may be) an operative Ground 2 possession order, being made in respect of the tenant, or 45

-
- (b) the application is withdrawn.
- (2B) For the purposes of subsection (2A) –
- “demotion order” means a demotion order under section 82A;
 - “Ground 2 possession order” means an order for possession under Ground 2 in Schedule 2; 5
 - “operative Ground 2 possession order” means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order.”
- (2) The amendment made by this section does not apply in any case where the tenant’s notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force. 10
- 157 Disclosure of information as to orders etc. in respect of anti-social behaviour**
- (1) Any person may disclose relevant information to a landlord under a secure tenancy if the information is disclosed for the purpose of enabling the landlord – 15
- (a) to decide whether either of the provisions of the Housing Act 1985 (c. 68) mentioned in subsection (2) can be invoked in relation to the tenant under the tenancy; or
 - (b) to take any appropriate action in relation to the tenant in reliance on either of those provisions. 20
- (2) The provisions are –
- (a) Ground 2A in Schedule 3 (withholding of consent to mutual exchange where order in force or application pending in connection with anti-social behaviour), and
 - (b) section 138(2A) (landlord’s obligation to complete suspended while application pending in connection with such behaviour). 25
- (3) In this section –
- (a) “relevant information” means information relating to any order or application relevant for the purposes of either of the provisions mentioned in subsection (2), including (in particular) information identifying the person in respect of whom any such order or application has been made; 30
 - (b) “secure tenancy” has the meaning given by section 79 of the Housing Act 1985; and
 - (c) any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants. 35

CHAPTER 2

DISCOUNTS ON DISPOSALS NOT INVOLVING RIGHT TO BUY

Discounts on disposals by local authorities

- 158 Repayment of discount: periods and amounts applicable** 40
- (1) Section 35 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

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- (2) In subsection (2) for the words from “to pay to the authority” to the end of the subsection substitute “to the following effect.”
- (3) After subsection (2) insert –
- “(3) The covenant shall be to pay to the authority such sum (if any) as the authority may demand in accordance with subsection (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment. 5
- (4) The authority may demand such sum as they consider appropriate, up to and including the maximum amount specified in this section. 10
- (5) The maximum amount which may be demanded by the authority is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 32.
- (6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth. 15
- (7) Subsections (4) to (6) are subject to section 35B.”
- (4) The amendments made by this section do not apply in any case where – 20
- (a) the purchaser has accepted an offer for the disposal of the house from the authority, or
- (b) the authority has accepted an offer for the disposal of the house from the purchaser,
- before the day on which this section comes into force. 25
- (5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (6) In the following provisions –
- (a) section 35(2) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and 30
- (b) any covenant for repayment of discount,
- any reference (however expressed) to a person being liable to pay an amount to the authority on demand is to be read as a reference to his being liable to pay to the authority so much of that amount (if any) as the authority may demand. 35
- (7) In subsections (5) and (6) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with section 35 of that Act.
- 159 Repayment of discount: increase attributable to home improvements to be disregarded 40**
- After section 35 of the Housing Act 1985 insert –
- “35A Increase in value of house attributable to home improvements**
- (1) In calculating the maximum amount which may be demanded by the authority under section 35, such amount (if any) of the price or

- premium paid for the first relevant disposal which is attributable to improvements made to the house –
- (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance, grant or assignment and before the disposal,
- 5
- shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
 - (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless –
 - (a) it is reasonably practicable for him to do so; and
 - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.10
 - (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.”
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160 Deferred resale agreements

- (1) After section 39 of the Housing Act 1985 (c. 68) insert –
 - “**39A Treatment of deferred resale agreements for purposes of section 35**
20
 - (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 35 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
 - (2) In subsection (1) “the appropriate time” means –
 - (a) the time when the agreement is entered into, or
 - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.25
 - (3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person –
 - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 32,
 - (b) which is made before the end of the discount repayment period, and
 - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.30
 - (4) Such an agreement is within subsection (3) –
 - (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
 - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.35
 - (5) The Secretary of State may by order provide –
 40

- (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
 - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5) – 5
- (a) may make different provision with respect to different cases or descriptions of case; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 10
- (7) In this section –
- “agreement” includes arrangement;
 - “the discount repayment period” means the period of 3 years that applies for the purposes of section 35(2) or the period of five years that applies for the purposes of section 35(3) (depending on whether an offer such as is mentioned in section 158(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).” 15
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the the day on which this section comes into force. 20

Discounts on disposals by registered social landlords

161 Repayment of discount: periods and amounts payable

- (1) For section 11 of the Housing Act 1996 (c. 52) substitute –
- “11 Covenant for repayment of discount on disposal” 25**
- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect. 30
 - (2) The covenant shall be to pay to the landlord such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment. 35
 - (3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
 - (4) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house by the landlord. 40
 - (5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum

amount which may be demanded by the landlord is reduced by one-fifth.

- (6) Subsections (3) to (5) are subject to section 11A.

11A Increase in value of house attributable to home improvements to be disregarded 5

- (1) In calculating the maximum amount which may be demanded by the landlord under section 11, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house –
- (a) by the person by whom the disposal is, or is to be, made, and 10
 - (b) after the conveyance, grant or assignment and before the disposal,
- shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer. 15
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless –
- (a) it is reasonably practicable for him to do so; and
 - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made. 20
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.

11B Liability to repay is a charge on the house 25

- (1) The liability that may arise under the covenant required by section 11 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, etc.) –
- (a) the covenant required by section 11 is not binding on the person to whom the disposal is made or any successor in title of his, and
 - (b) the covenant and the charge taking effect by virtue of this section cease to apply in relation to the property disposed of.” 35
- (2) In section 12 for “section 11” in each place where it occurs substitute “section 11B”.
- (3) The amendments made by this section do not apply in any case where –
- (a) the purchaser has accepted an offer for the disposal of the house from the landlord, or 40
 - (b) the landlord has accepted an offer for the disposal of the house from the purchaser,
- before the day on which this section comes into force.

- (4) Subsection (5), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (5) In the following provisions –
- (a) section 11(2) of the Housing Act 1996 (c. 52) (as it has effect without the amendments made by this section), and 5
 - (b) any covenant for repayment of discount,
any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand. 10
- (6) In subsections (4) and (5) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with section 11 of that Act.

162 Repayment of discount: deferred resale agreements

- (1) After section 15 of the Housing Act 1996 insert – 15
- “15A Treatment of deferred resale agreements for purposes of section 11**
- (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 11 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time. 20
- (2) In subsection (1) “the appropriate time” means –
- (a) the time when the agreement is entered into, or
 - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person – 25
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, by virtue of section 8,
 - (b) which is made before the end of the discount repayment period, and 30
 - (c) under which a relevant disposal which is not an exempted disposal is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3) – 35
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
 - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide – 40
- (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
 - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5) – 45

- (a) may make different provision with respect to different cases or descriptions of case; and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 5
- (7) In this section –
 “agreement” includes arrangement;
 “the discount repayment period” means the period of three or five years that applies for the purposes of section 11(2) (depending on whether an offer such as is mentioned in section 161(3) of the Housing Act 2004 was made before or on or after the coming into force of that section).” 10
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force. 15

Discounts on disposals by housing action trusts

163 Repayment of discount: periods and amounts payable

- (1) Schedule 11 to the Housing Act 1988 (c. 50) (provisions applicable to certain disposals of houses) is amended as follows.
- (2) In paragraph 1(2) for the words from “to pay to the housing action trust” to the end of the sub-paragraph substitute “to the following effect.” 20
- (3) After paragraph 1(2) insert –
 “(3) The covenant shall be to pay to the housing action trust such sum (if any) as the trust may demand in accordance with sub-paragraph (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment. 25
 (4) The trust may demand such sum as it considers appropriate, up to and including the maximum amount specified in this paragraph.
 (5) The maximum amount which may be demanded by the trust is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 79. 30
 (6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the trust is reduced by one-fifth. 35
 (7) Sub-paragraphs (4) to (6) are subject to paragraph 1A.

Increase in value of house attributable to home improvements

- 1A (1) In calculating the maximum amount which may be demanded by the housing action trust under paragraph 1, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house – 40
 (a) by the person by whom the disposal is, or is to be, made, and

- (b) after the conveyance, grant or assignment and before the disposal,
shall be disregarded.
- (2) The amount to be disregarded under this paragraph shall be such amount as may be agreed between the parties or determined by the district valuer. 5
- (3) The district valuer shall not be required by virtue of this paragraph to make a determination for the purposes of this paragraph unless—
- (a) it is reasonably practicable for him to do so; and
- (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made. 10
- (4) If the district valuer does not make a determination for the purposes of this paragraph (and in default of an agreement), no amount is required to be disregarded under this paragraph.”
- (4) The amendments made by this section do not apply in any case where— 15
- (a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or
- (b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,
- before the day on which this section comes into force. 20
- (5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (6) In the following provisions—
- (a) paragraph 1(2) of Schedule 11 to the Housing Act 1988 (c. 50) (as it has effect without the amendments made by this section), and 25
- (b) any covenant for repayment of discount,
- any reference (however expressed) to a person being liable to pay an amount to the housing action trust on demand is to be read as a reference to his being liable to pay to the trust so much of that amount (if any) as the trust may demand. 30
- (7) In subsections (5) and (6) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with paragraph 1 of Schedule 11 to that Act.
- 164 Repayment of discount: deferred resale agreements 35**
- (1) After paragraph 7 of Schedule 11 to the Housing Act 1988 insert—
- “Treatment of deferred resale agreements*
- 8 (1) If a purchaser or his successor in title enters into an agreement within sub-paragraph (3), any liability arising under the covenant required by paragraph 1 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time. 40
- (2) In sub-paragraph (1) “the appropriate time” means—
- (a) the time when the agreement is entered into, or

-
- (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this sub-paragraph if it is an agreement between the purchaser or his successor in title and any other person – 5
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 79,
- (b) which is made before the end of the discount repayment period, and 10
- (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within sub-paragraph (3) – 15
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
- (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide – 20
- (a) for sub-paragraph (1) to apply to agreements of any description specified in the order in addition to those within sub-paragraph (3);
- (b) for sub-paragraph (1) not to apply to agreements of any description so specified to which it would otherwise apply. 25
- (6) An order under sub-paragraph (5) –
- (a) may make different provision with respect to different cases or descriptions of case; and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (7) In this paragraph –
- “agreement” includes arrangement;
- “the discount repayment period” means the period of 3 years that applies for the purposes of paragraph 1(2) or the period of five years that applies for the purposes of paragraph 1(3) (depending on whether an offer such as is mentioned in section 163(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).” 35
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force. 40

CHAPTER 3

MISCELLANEOUS

Succession between same sex partners

165 Succession to certain tenancies by same sex partners

- (1) For paragraph 2(2) of Schedule 1 to the Rent Act 1977 (c. 42) substitute – 5
 “(2) For the purposes of this paragraph, a person shall be treated as the spouse of the original tenant if the person was living with the original tenant –
 (a) as his or her wife or husband, or
 (b) if of the same sex, in an equivalent relationship.” 10
- (2) After the existing provisions of section 87 of the Housing Act 1985 (c. 68), which become subsection (1), insert –
 “(2) In this section and section 89(2) “member of the tenant’s family” includes (in addition to the persons mentioned in section 113(1)) a person who is of the same sex as the tenant and lives together with the tenant in a relationship equivalent to that of husband and wife.” 15
- (3) For section 17(4) of the Housing Act 1988 (c. 50) substitute –
 “(4) For the purposes of this section, a person shall be treated as the tenant’s spouse if the person was living with the tenant –
 (a) as his or her wife or husband, or 20
 (b) if of the same sex, in an equivalent relationship.”
- (4) After the existing provisions of section 131 of the Housing Act 1996 (c. 52), which become subsection (1), insert –
 “(2) In this section and section 133(2) “member of the tenant’s family” includes (in addition to the persons mentioned in section 140(1)) a person who is of the same sex as the tenant and lives together with the tenant in a relationship equivalent to that of husband and wife.” 25

Grants for social housing

166 Additional power to give grants for social housing

- After section 27 of the Housing Act 1996 insert – 30

“Grants to bodies other than registered social landlords

27A Grants to bodies other than registered social landlords

- (1) The Relevant Authority may make grants under this section to companies that are not registered social landlords.
- (2) Grants under this section are grants for any of the following purposes – 35
 (a) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of –

-
- (i) under equity percentage arrangements, or
 - (ii) on shared ownership terms;
 - (b) constructing houses to be disposed of –
 - (i) under equity percentage arrangements, or
 - (ii) on shared ownership terms; 5
 - (c) providing loans to be secured by mortgages to assist persons to acquire houses for their own occupation;
 - (d) providing, constructing or improving houses to be kept available for letting;
 - (e) providing, constructing or improving houses for letting that are to be managed by such registered social landlords, and under arrangements containing such terms, as are approved by the Relevant Authority; 10
 - (f) such other purposes as may be specified in an order under subsection (3). 15
- (3) The Secretary of State may by order make such provision in connection with the making of grants under this section as he considers appropriate.
- (4) An order under subsection (3) may, in particular, make provision –
- (a) defining “equity percentage arrangements” for the purposes of this section; 20
 - (b) specifying or describing the bodies from whom loans may be obtained by persons wishing to acquire houses for their own occupation;
 - (c) dealing with the priority of mortgages entered into by such persons; 25
 - (d) specifying purposes additional to those mentioned in subsection (2)(a) to (e).
- (5) The Relevant Authority shall specify in relation to grants under this section – 30
- (a) the procedure to be followed in relation to applications for grant,
 - (b) the circumstances in which grant is or is not to be payable,
 - (c) the method for calculating, and any limitations on, the amount of the grant, and 35
 - (d) the manner in which, and the time or times at which, grant is to be paid.
- (6) In making a grant to a company under this section the Relevant Authority may provide that the grant is conditional on compliance by the company with such conditions as the Authority may specify. 40
- (7) The conditions that may be so specified include conditions requiring the payment to the Relevant Authority in specified circumstances of a sum determined by the Authority (with or without interest).
- (8) An order under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 45
- (9) In this section –
 “company” means –

- (a) a company registered under the Companies Act 1985 (including such a company which is also a registered charity), or
 - (b) a company not so registered which is established by a local housing authority for the purpose of exercising management functions of the authority under section 27 of the Housing Act 1985; 5
- “disposed of on shared ownership terms” has the meaning given by section 2(6);
- “letting” includes the grant of a licence to occupy.” 10

Disabled facilities grant

167 Disabled facilities grant: caravans

- (1) The Housing Grants, Construction and Regeneration Act 1996 (c. 53) is amended as follows.
- (2) In section 1(1)(c)(i) (grants in relation to qualifying park homes) for “qualifying park homes” substitute “caravans”. 15
- (3) In section 19(1) (applications for grants) for paragraph (c) substitute –
 - “(c) that the applicant is an occupier (alone or jointly with others) of a qualifying houseboat or a caravan and, in the case of a caravan, that at the time the application was made the caravan was stationed on land within the authority’s area.” 20
- (4) In section 22A (certificates required in case of occupier’s application) –
 - (a) for “qualifying park home” in subsection (2)(b) and (3)(a) and (b) substitute “caravan”, and
 - (b) for “pitch” in subsection (3)(a) substitute “land”. 25
- (5) In the following provisions for “qualifying park home” substitute “caravan” –
 - (a) section 23(1)(a)(i), (b)(i), (i) and (k) (purposes of grant);
 - (b) section 24(3)(b)(i) (approval of application);
 - (c) section 29(3) (restriction on grants for works already begun);
 - (d) section 41(1)(b) (change of circumstances). 30
- (6) In section 57(2)(a) (power of authority to carry out works) –
 - (a) for “qualifying park home”, in each place where it occurs, substitute “caravan”, and
 - (b) for “pitch” in sub-paragraph (i) substitute “land”.
- (7) In section 58 (minor definitions for the purposes of Chapter 1 of Part 1) – 35
 - (a) before the definition of “common parts” insert –
 - ““caravan” –
 - (a) means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968); and 40
 - (b) includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;” and

-
- (b) for “qualifying park home” in the definition of “premises” substitute “caravan”, and
- (c) omit the definition of “qualifying park home”.
- (8) In section 59 (index of defined expressions) –
- (a) before the entry relating to “certified date” insert – 5
- “caravan section 58”; and
- (b) omit the entry relating to “qualifying park home”.
- (9) The amendments made by this section do not apply in relation to any application for a disabled facilities grant under the Housing Grants, Construction and Regeneration Act 1996 (c. 53) that is made before the day on which this section comes into force. 10

Annual reports by local housing authorities

168 Removal of duty on local housing authorities to send annual reports to tenants etc.

Omit section 167 of the Local Government and Housing Act 1989 (c. 42) (duty of local housing authorities to send annual reports to tenants). 15

Social Housing Ombudsman for Wales

169 Social Housing Ombudsman for Wales

- (1) After subsection (6) of section 51 of the Housing Act 1996 (c. 52) (schemes for investigation of housing complaints) insert – 20
- “(7) This section shall not apply in relation to social landlords in Wales (within the meaning given by section 51C).”
- (2) After that section insert –
- “51A Social Housing Ombudsman for Wales**
- (1) For the purpose of the investigation of complaints made about social landlords in Wales, there shall be an office of Social Housing Ombudsman for Wales or Ombwdsmon Tai Cymdeithasol Cymru. 25
- (2) The person who is the Local Commissioner for Wales shall also be the Social Housing Ombudsman for Wales.
- (3) If there is more than one person who is a Local Commissioner for Wales, the Commission for Local Administration in Wales shall designate one of them to be the Social Housing Ombudsman for Wales. 30
- (4) If a person who is the Social Housing Ombudsman for Wales ceases to be a Local Commissioner for Wales, he shall cease to be the Social Housing Ombudsman for Wales. 35
- (5) The power under section 23(6) of the Local Government Act 1974 to remove a Local Commissioner for Wales from office on grounds of incapacity or misbehaviour includes a power to remove him from that

office on grounds of incapacity or misbehaviour which are exclusively or partly relevant to the office of Social Housing Ombudsman for Wales.

- (6) “Local Commissioner for Wales” shall be construed in accordance with section 23 of the Local Government Act 1974. 5
- (7) Schedule 2A (which contains further provision about the Social Housing Ombudsman for Wales) shall have effect.

51B Investigation of complaints

- (1) The National Assembly for Wales may by regulations make provision about the investigation by the Social Housing Ombudsman for Wales of complaints made about social landlords in Wales. 10
- (2) Regulations under subsection (1) may in particular make provision about—
- (a) the matters about which complaints may be made;
 - (b) the grounds on which a matter may be excluded from investigation, including that the matter is the subject of court proceedings or was the subject of court proceedings where judgment on the merits was given; 15
 - (c) the description of individual who may make a complaint;
 - (d) a power of the Social Housing Ombudsman for Wales to investigate any complaint duly made (whether the complaint is subsequently withdrawn or not), and, where he investigates, the making of a determination; 20
 - (e) a power of the Social Housing Ombudsman for Wales to propose alternative methods of resolving a dispute; 25
 - (f) the powers of the Social Housing Ombudsman for Wales for the purposes of his investigations (including powers to consult and co-operate with other persons), and the procedure to be followed in the conduct of investigations;
 - (g) the powers of the Social Housing Ombudsman for Wales on making a determination, which may include power— 30
 - (i) to make recommendations as to action to be taken to remedy any injustice to the person aggrieved and to prevent any similar injustice being caused in the future,
 - (ii) to make orders with regard to the payment of compensation or to order that a person is not to exercise, or require the performance of, certain rights or obligations, and 35
 - (iii) to publish statements, or to make orders requiring the publication of statements, that a person has failed to comply with an order mentioned in sub-paragraph (ii); 40
 - (h) the manner in which determinations are to be—
 - (i) communicated to the complainant and the person against whom the complaint was made; and
 - (ii) published (with or without excisions). 45
- (3) Regulations under this section may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.

- (4) Regulations under this section may make different provision for different cases or descriptions of case.
- (5) Regulations under this section shall be made by statutory instrument.

51C Meaning of “social landlord in Wales”

- (1) “Social landlord in Wales” means – 5
- (a) a body which is registered as a social landlord in the register maintained by the National Assembly for Wales under section 1 of this Act;
- (b) a body which was at any time registered as a social landlord in that register (or in the register previously maintained under that section by the Secretary of State or Housing for Wales); and 10
- (c) any other body which was at any time registered with Housing for Wales, the Secretary of State or the National Assembly for Wales and which owns or manages publicly-funded dwellings.
- (2) In subsection (1)(c) a “publicly-funded” dwelling means a dwelling which was – 15
- (a) provided by means of a grant under –
- (i) section 18 of this Act (social housing grant); or
- (ii) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985, or section 29 or 29A of the Housing Act 1974 (housing association grant); or 20
- (b) acquired on a disposal by a public sector landlord.
- (3) The National Assembly for Wales may by order made by statutory instrument add to or amend the descriptions of landlords who are to be treated as social landlords in Wales. 25
- (4) Before making any such order the National Assembly for Wales shall consult such persons as it considers appropriate.
- (5) Any such order may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.” 30
- (3) After Schedule 2 to that Act there is inserted, as Schedule 2A, the Schedule set out in Schedule 8 to this Act.
- (4) In Schedule 4 to the Local Government Act 1974 (c. 7), in paragraph 1(3) (validity of acts despite disqualification for being appointed as, or for being, a Local Commissioner) after “office” there is inserted “or in the office of Social Housing Ombudsman for Wales”. 35

PART 7

SUPPLEMENTARY AND FINAL PROVISIONS

Register of licences and management orders

- 170 Register of licences and management orders** 40
- (1) Every local housing authority must establish and maintain a register of –
- (a) all licences granted by them under Part 2 or 3 which are in force;

- (b) all temporary exemption notices served by them under section 51 or section 73 which are in force; and
 - (c) all interim and final management orders made by them under Part 4 which are in force.
- (2) The register may, subject to any requirements that may be prescribed, be in such form as the authority consider appropriate. 5
- (3) Each entry in the register is to contain such particulars as may be prescribed.
- (4) The authority must ensure that the contents of the register are available at the authority’s head office for inspection by members of the public at all reasonable times. 10
- (5) If requested by a person to do so and subject to payment of such reasonable fee (if any) as the authority may determine, a local housing authority must supply the person with a copy (certified to be true) of the register or of an extract from it.
- (6) A copy so certified is prima facie evidence of the matters mentioned in it. 15
- (7) In this section “prescribed” means prescribed by regulations made by the appropriate national authority.

Codes of practice and management regulations relating to HMOs

171 Approval of codes of practice with regard to the management of HMOs

- (1) The appropriate national authority may by order – 20
- (a) approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of houses in multiple occupation;
 - (b) approve a modification of such a code; or 25
 - (c) withdraw the authority’s approval of such a code or modification.
- (2) Before approving a code of practice or a modification of a code of practice under this section the appropriate national authority must take reasonable steps to consult –
- (a) persons involved in the management of houses in multiple occupation and persons occupying such houses, or 30
 - (b) persons whom the authority considers to represent the interests of those persons.
- (3) The appropriate national authority may only approve a code of practice or a modification of a code if satisfied that – 35
- (a) the code or modification has been published (whether by the authority or by another person) in a manner that the authority considers appropriate for the purpose of bringing the code or modification to the attention of those likely to be affected by it; or
 - (b) arrangements have been made for the code or modification to be so published. 40
- (4) The appropriate national authority may approve a code of practice which makes different provision in relation to different cases or descriptions of case (including different provision for different areas).

- (5) A failure to comply with a code of practice for the time being approved under this section does not of itself make a person liable to any civil or criminal proceedings.

172 Management regulations in respect of HMOs

- (1) The appropriate national authority may by regulations make provision for the purpose of ensuring that, in respect of every house in multiple occupation of a description specified in the regulations – 5
- (a) there are in place satisfactory management arrangements; and
 - (b) satisfactory standards of management are observed.
- (2) The regulations may, in particular, impose duties on persons occupying a house for the purpose of ensuring that the person managing the house can effectively carry out any duty imposed on him by the regulations. 10
- (3) A person commits an offence if he fails to comply with a regulation under this section.
- (4) In proceedings against a person for an offence under subsection (3) it is a defence that he had a reasonable excuse for not complying with the regulation. 15
- (5) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Information provisions

173 Power to require documents to be produced 20

- (1) The powers conferred by this section are exercisable by or on behalf of a local housing authority –
- (a) for any purpose connected with the exercise of any of the authority's functions under any of Parts 1 to 4 in relation to any premises, or
 - (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises. 25
- (2) A local housing authority may give a notice to a relevant person requiring him –
- (a) to produce any documents which –
 - (i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and
 - (ii) are in his custody or under his control, and
 - (b) to produce them at a time and place so specified and to a person so specified. 30
- (3) The notice must include information about the possible consequences of not complying with the notice. 35
- (4) The person to whom any document is produced in accordance with the notice may copy the document.
- (5) No person may be required under this section to produce any document which he would be entitled to refuse to provide in proceedings in the High Court on grounds of legal professional privilege. 40

- (6) In this section “document” includes information recorded otherwise than in legible form, and in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.
- (7) In this section “relevant person” means, in relation to any premises, a person within any of the following paragraphs –
 - (a) a person who is, or is proposed to be, the holder of a licence under Part 2 or 3 in respect of the premises, or a person on whom any obligation or restriction under such a licence is, or is proposed to be, imposed,
 - (b) a person who has an estate or interest in the premises,
 - (c) a person who is, or is proposing to be, managing or having control of the premises,
 - (d) a person who is, or is proposing to be, otherwise involved in the management of the premises,
 - (e) a person who occupies the premises.

174 Enforcement of powers to obtain information

- (1) A person commits an offence if he fails to do anything required of him by a notice under section 173.
- (2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person commits an offence if he intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 173.
- (5) A person who commits an offence under subsection (4) is liable –
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (6) In this section “document” includes information recorded otherwise than in legible form, and in relation to information so recorded –
 - (a) the reference to the production of a document is a reference to the production of a copy of the information in legible form, and
 - (b) the reference to suppressing a document includes a reference to destroying the means of reproducing the information.

175 Use of information obtained for certain other statutory purposes

- (1) A local housing authority may use any information to which this section applies –
 - (a) for any purpose connected with the exercise of any of the authority’s functions under any of Parts 1 to 4 in relation to any premises, or
 - (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.
- (2) This section applies to any information which has been obtained by the authority in the exercise of functions under –

- (a) section 134 of the Social Security Administration Act 1992 (c. 5) (housing benefit), or
- (b) Part 1 of the Local Government Finance Act 1992 (c. 14) (council tax).

176 False or misleading information

- (1) A person commits an offence if – 5
 - (a) he supplies any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part,
 - (b) the information is false or misleading, and
 - (c) he knows that it is false or misleading or is reckless as to whether it is false or misleading. 10
- (2) A person commits an offence if –
 - (a) he supplies any information to another person which is false or misleading,
 - (b) he knows that it is false or misleading or is reckless as to whether it is false or misleading, and 15
 - (c) he knows that the information is to be used for the purpose of supplying information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part.
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 20
- (4) In this section “false or misleading” means false or misleading in any material respect.

*Enforcement***177 Powers of entry**

- (1) Subsection (2) applies where the local housing authority consider that a survey or examination of any premises is necessary and any of the following conditions is met – 25
 - (a) the authority consider that the survey or examination is necessary in order to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises; 30
 - (b) the premises are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order;
 - (c) an interim or final management order is in force under Part 4 in respect of the premises.
- (2) A person authorised by the local housing authority may enter the premises at any reasonable time for the purpose of carrying out a survey or examination of the premises. 35
- (3) If –
 - (a) an interim or final management order is in force under Part 4 in respect of any premises consisting of part of a house (“the relevant premises”), and 40
 - (b) another part of the house is excluded from the order by virtue of section 87(8) or 97(7),

- the power of entry conferred by subsection (2) is exercisable in relation to any premises comprised in that other part so far as is necessary for the purpose of carrying out a survey or examination of the relevant premises.
- (4) Before entering any premises in exercise of the power conferred by subsection (2), the authorised person must have given at least 24 hours' notice of his intention to do so – 5
- (a) to the owner of the premises (if known), and
 - (b) to the occupier (if any).
- (5) Subsection (6) applies where the local housing authority consider that any premises need to be entered for the purpose of ascertaining whether an offence has been committed under section 61, 82 or 172(3). 10
- (6) A person authorised by the local housing authority may enter the premises for that purpose –
- (a) at any reasonable time, but
 - (b) without giving any prior notice as mentioned in subsection (4). 15
- (7) An authorisation for the purposes of this section –
- (a) must be in writing; and
 - (b) must state the particular purpose or purposes for which the entry is authorised.
- (8) A person authorised for the purposes of this section must, if required to do so, produce his authorisation for inspection by the owner or any occupier of the premises or anyone acting on his behalf. 20
- (9) If the premises are unoccupied or the occupier is temporarily absent, a person exercising the power of entry conferred by subsection (2) must leave the premises as effectively secured against trespassers as he found them. 25
- (10) In this section “occupier”, in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

178 Warrant to authorise entry

- (1) This section applies where a justice of the peace is satisfied, on a sworn information in writing, that admission to premises specified in the information is reasonably required for any of the purposes mentioned in subsection (2) by a person – 30
- (a) employed by, or
 - (b) acting on the instructions of,
- the local housing authority. 35
- (2) The purposes are –
- (a) surveying or examining premises in order to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;
 - (b) surveying or examining premises – 40
 - (i) which are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order, or
 - (ii) in respect of which an interim or final management order is in force under Part 4;

-
- (c) ascertaining whether an offence has been committed under section 61, 82 or 172(3).
- (3) The justice may by warrant under his hand authorise the person mentioned in subsection (1) to enter on the premises for such of those purposes as may be specified in the warrant. 5
- (4) But the justice must not grant the warrant unless he is satisfied –
- (a) that admission to the premises has been sought in accordance with section 177(4) or (6) but has been refused;
- (b) that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the purpose of the entry to await his return; or 10
- (c) that application for admission would defeat the purpose of the entry.
- (5) The power of entry conferred by a warrant under this section –
- (a) includes power to enter by force (if necessary); and
- (b) may be exercised by the person on whom it is conferred either alone or together with other persons. 15
- (6) A warrant under this section must, if so required, be produced for inspection by the owner or any occupier of the premises or anyone acting on his behalf.
- (7) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of a warrant under this section must leave the premises as effectively secured against trespassers as he found them. 20
- (8) A warrant under this section continues in force until the purpose for which the entry is required is satisfied.
- (9) In a case within section 177(3)(a) and (b), the powers conferred by this section are exercisable in relation to premises comprised in the excluded part of the house as well as in relation to the relevant premises. 25
- (10) In this section “occupier”, in relation to premises, means a person who occupies the premises, whether for residential or other purposes.
- 179 Penalty for obstruction**
- (1) A person who obstructs a relevant person in the performance of anything which, by virtue of any of Parts 1 to 4 or this Part, that person is required or authorised to do commits an offence. 30
- (2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for obstructing the relevant person.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale. 35
- (4) In this section “relevant person” means an officer of a local housing authority or any person authorised to enter premises by virtue of any of Parts 1 to 4 or section 177.
- 180 Additional notice requirements for protection of owners** 40
- (1) This section applies where an owner of premises gives a notice to the local housing authority for the purposes of this section informing them of his interest in the premises.

- (2) The authority must give him notice of any action taken by them under any of Parts 1 to 4 or this Part in relation to the premises.

Documents

181 Power to prescribe forms

- (1) The appropriate national authority may by regulations prescribe the form of any notice, statement or other document which is required or authorised to be used under, or for the purposes of, this Act. 5
- (2) The power conferred by this section is not exercisable where specific provision for prescribing the form of a document is made elsewhere in this Act.

182 Power to dispense with notices

- (1) The appropriate national authority may dispense with the service of a notice which is required to be served by a local housing authority under this Act if satisfied that it is reasonable to do so. 10
- (2) A dispensation may be given either before or after the time at which the notice is required to be served. 15
- (3) A dispensation may be given either unconditionally or on such conditions (whether as to the service of other notices or otherwise) as the appropriate national authority considers appropriate.
- (4) Before giving a dispensation under this section, the appropriate national authority shall, in particular, have regard to the need to ensure, so far as possible, that the interests of any person are not prejudiced by the dispensation. 20

183 Service of documents

- (1) Subsection (2) applies where the local housing authority is, by virtue of any provision of Parts 1 to 4, under a duty to serve a document on a person who, to the knowledge of the authority, is – 25
 - (a) a person having control of premises,
 - (b) a person managing premises, or
 - (c) a person having an estate or interest in premises, whether or not restricted to persons who are owners or lessees or mortgagees or to any other class of those having an estate or interest in premises, 30or a person who (but for an interim or final management order under Part 4) would fall within paragraph (a) or (b).
- (2) The local housing authority shall take reasonable steps to identify the person or persons falling within the description in that provision. 35
- (3) A person having an estate or interest in premises may for the purposes of any provision to which subsections (1) and (2) apply give notice to the local housing authority of his interest in the premises.
- (4) The local housing authority must enter a notice under subsection (3) in its records. 40

- (5) A document required or authorised by any of Parts 1 to 4 to be served on a person as being a person having control of premises may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served by –
- (a) addressing it to him by the description of “person having control of” the premises (naming them) to which it relates, and
 - (b) delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by fixing it, or a copy of it, to some conspicuous part of the premises.
- (6) Where under any provision of Parts 1 to 4 or this Part a document is to be served on –
- (a) the person having control of premises,
 - (b) the person managing premises, or
 - (c) the owner of premises,
- and more than one person comes within the description in the provision, the document may be served on more than one of those persons.
- (7) Section 233 of the Local Government Act 1972 (c. 70) (service of notices by local authorities) applies in relation to the service of documents for any purposes of this Act by the authorities mentioned in section 196(2)(d) and (e) of this Act as if they were local authorities within the meaning of section 233.
- (8) In this section references to serving include references to similar expressions (such as giving or sending).
- (9) In this section –
- “document” includes anything in writing;
 - “premises”, in the context of a reference to a person managing or having control of, or to the owner of, premises, means premises however defined.

184 Licences and other documents in electronic form

- (1) A local housing authority may, subject to subsection (3), issue a licence to a person under Part 2 or 3 by transmitting the text of the licence to him by electronic means, provided the text –
- (a) is received by him in legible form, and
 - (b) is capable of being used for subsequent reference.
- (2) A local housing authority may, subject to subsection (3), serve a relevant document on a person by transmitting the text of the document to him in the way mentioned in subsection (1).
- (3) The recipient, or the person on whose behalf the recipient receives the document, must have indicated to the local housing authority the recipient’s willingness to receive documents transmitted in the form and manner used.
- (4) An indication for the purposes of subsection (3) –
- (a) must be given to the local housing authority in such manner as they may require;
 - (b) may be a general indication or one that is limited to documents of a particular description;

- (c) must state the address to be used and must be accompanied by such other information as the local housing authority require for the making of the transmission; and
 - (d) may be modified or withdrawn at any time by a notice given to the local housing authority in such manner as they may require. 5
- (5) In this section any reference to serving includes a reference to similar expressions (such as giving or sending).
- (6) In this section –
 - “document” includes anything in writing; and
 - “relevant document” means any document which a local housing authority are, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve on any person. 10

185 Timing and location of things done electronically

- (1) The Secretary of State may by regulations make provision specifying, for the purposes of any of Parts 1 to 4 or this Part, the manner of determining – 15
 - (a) the times at which things done under any of Parts 1 to 4 or this Part by means of electronic communications networks are done;
 - (b) the places at which things done under any of Parts 1 to 4 or this Part by means of such networks are done; and
 - (c) the places at which things transmitted by means of such networks are received. 20
- (2) The Secretary of State may by regulations make provision about the manner of proving in any legal proceedings –
 - (a) that something done by means of an electronic communications network satisfies any requirements of any of Parts 1 to 4 or this Part for the doing of that thing; and 25
 - (b) the matters mentioned in subsection (1)(a) to (c).
- (3) Regulations under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.
- (4) In this section “electronic communications network” has the meaning given by section 32 of the Communications Act 2003 (c.21). 30

186 Proof of designations

- (1) This subsection applies in respect of a copy of –
 - (a) a designation under section 45 (designation of an area as subject to additional licensing), or 35
 - (b) a designation under section 67 (designation of an area as subject to selective licensing),which purports to be made by a local housing authority.
- (2) A certificate endorsed on such a copy and purporting to be signed by the proper officer of the authority stating the matters set out in subsection (3) is prima facie evidence of the facts so stated without proof of the handwriting or official position of the person by whom it purports to be signed. 40
- (3) Those matters are –
 - (a) that the designation was made by the authority,

- (b) that the copy is a true copy of the designation, and
- (c) that the designation did not require confirmation by the confirming authority, or that on a specified date the designation was confirmed by the confirming authority.

Other supplementary provisions 5

187 Orders and regulations

- (1) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act— 10
 - (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas; and
 - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State or (as the case may be) the National Assembly for Wales considers appropriate. 15
- (3) The Secretary of State must consult the National Assembly for Wales before making any regulations under Part 5 which relate to residential properties in Wales. 20
- (4) Subject to subsections (5) and (6), any order or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to— 25
 - (a) an order made under section 204, or
 - (b) an order made under section 44(3) where a draft of the order has been laid before, and approved by a resolution of, each House of Parliament, or
 - (c) regulations made under section 50(5) or 86(5) where a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament. 30
- (6) The Secretary of State may not make— 35
 - (a) any regulations under section 191(3) or Schedule 4,
 - (b) an order under section 67(5), or
 - (c) an order under section 199(2) which modifies any provision of an Act, unless a draft of the regulations or order has been laid before, and approved by a resolution of, each House of Parliament.

188 Offences by bodies corporate

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of— 40
 - (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in such a capacity,

he as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate. 5

189 Power to up-rate level of fines for certain offences

- (1) Subsection (2) applies if the Secretary of State considers that there has been a change in the value of money since the relevant date.
- (2) The Secretary of State may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (3) such other sum or sums as he considers to be justified by the change. 10
- (3) The provisions are –
- (a) section 30(2)(b);
 - (b) section 33(6);
 - (c) section 61(6); and
 - (d) section 82(5). 15
- (4) In subsection (1) “the relevant date” means –
- (a) the date of the passing of this Act; or
 - (b) where the sums specified in a provision mentioned in subsection (3) have been substituted by an order under subsection (2), the date of that order. 20
- (5) Nothing in an order under subsection (2) affects the punishment for an offence committed before the order comes into force.

190 Local inquiries

The appropriate national authority may, for the purposes of the execution of any of the authority’s functions under this Act, cause such local inquiries to be held as the authority considers appropriate. 25

Meaning of "house in multiple occupation"

191 Meaning of “house in multiple occupation”

- (1) For the purposes of this Act a building or a part of a building is a “house in multiple occupation” if – 30
- (a) it is a house, hostel, self-contained flat or other relevant building (see sections 192 and 193),
 - (b) it is occupied by persons who do not form a single household (see section 194) and their occupation constitutes its only or main use, 35
 - (c) it is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 195),
 - (d) rents or other amounts are payable to an owner or lessee of it (or a person acting on his behalf) in respect of those persons’ occupation of it, and
 - (e) either of the following applies – 40

- (i) it is occupied by two or more households who share one or more basic amenities;
 - (ii) it is a converted building and is occupied by two or more households who are not sharing such amenities but are occupying living accommodation not consisting of self-contained flats. 5
- Paragraphs (d) and (e) are not applicable in the case of a converted block of flats to which section 193 applies.
- (2) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 9. 10
 - (3) The appropriate national authority may by regulations –
 - (a) make such amendments of this section and sections 192 to 195 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act; 15
 - (b) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.
 - (4) Regulations under subsection (3) may frame any description by reference to any matters or circumstances whatever. 20
 - (5) In this section –
 - “basic amenities” means –
 - (a) a toilet,
 - (b) personal washing facilities, or 25
 - (c) cooking facilities;
 - “converted building” means a house, hostel, self-contained flat or other relevant building which, having regard to the layout of the living accommodation contained in it, is not being used for the purpose for which it was constructed; 30
 - “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));
 - “self-contained flat” has the same meaning as in clause 192.

192 HMOs: houses and other relevant buildings

- (1) This section sets out what are relevant buildings for the purposes of section 191(1). 35
- (2) Each of the following is a relevant building –
 - (a) a house (see subsection (3)),
 - (b) a hostel (see subsections (4) and (5)),
 - (c) a self-contained flat (see subsection (6)), 40
 - (d) a converted block of flats to which section 193 applies, and
 - (e) any building or part of a building of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) For the purposes of this section – 45

- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
 - (b) where a building is divided vertically, the units into which it is divided may be houses;
 - (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure; and 5
 - (d) where a building or a part of a building contains self-contained flats it may be a house if it also contains some other living accommodation.
- (4) For the purposes of this section “hostel” includes – 10
- (a) any building or part of a building that operates as a hostel (whatever the name by which it is called), and
 - (b) a women’s refuge,
- and may include a house, or a building or part of a building which contains self-contained flats if it also contains some other living accommodation. 15
- (5) In subsection (4) “women’s refuge” means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of –
- (a) physical violence or mental abuse, or 20
 - (b) threats of such violence or abuse,
- from persons to whom they are or were married or with whom they are or were co-habiting.
- (6) For the purposes of this section a “self-contained flat” means a separate set of premises (whether or not on the same floor) – 25
- (a) which forms part of a building;
 - (b) either the whole or a material part of which lies above or below some other part of the building; and
 - (c) in which all three basic amenities are available for the exclusive use of its occupants. 30
- (7) In this section “basic amenities” has the same meaning as in section 191.

193 HMOs: certain converted blocks of flats

- (1) For the purposes of this section a “converted block of flats” means a building or part of a building which – 35
- (a) has been converted into, and
 - (b) consists of,
- self-contained flats.
- (2) This section applies to a converted block of flats if –
- (a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and 40
 - (b) less than two-thirds of the self-contained flats are owner-occupied.
- (3) In subsection (2) “appropriate building standards” means –
- (a) in the case of a converted block of flats –

- (i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations 1991 (S.I. 1991/2768), and
 - (ii) which would not have been exempt under those Regulations, building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and
 - (b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).
- (4) For the purposes of subsection (2) a flat is “owner-occupied” if it is occupied –
- (a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,
 - (b) by a person who has the freehold estate in the converted block of flats, or
 - (c) by a member of the household of a person within paragraph (a) or (b).
- (5) The fact that this section applies to a converted block of flats (with the result that it is a relevant building for the purposes of section 191(1)), does not affect the status of the flats in the block, or (if appropriate) any other dwelling in the block, as relevant buildings for those purposes.
- (6) In this section “self-contained flat” has the same meaning as in section 192.

194 HMOs: persons not forming a single household

- (1) This section sets out when persons are to be regarded as not forming a single household for the purposes of section 191(1).
- (2) Persons are to be regarded as not forming a single household unless –
- (a) they are all members of the same family, or
 - (b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) For the purposes of subsection (2)(a) a person is a member of the same family as another person if –
- (a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex); or
 - (b) one of them is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other.
- (4) For those purposes –
- (a) a relationship by marriage shall be treated as a relationship by blood;
 - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
 - (c) the stepchild of a person shall be treated as his child.
- (5) Regulations under subsection (2)(b) may, in particular, secure that a group of persons are to be regarded as forming a single household only where (as the regulations may require) each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.

- (6) In subsection (5) “prescribed relationship” means any relationship of a description specified in the regulations.

195 HMOs: persons treated as occupying premises as only or main residence

- (1) This section sets out when persons are to be treated for the purposes of section 191(1) as occupying a building or part of a building as their only or main residence. 5
- (2) A person is to be treated as so occupying a building or part of a building if it is occupied by the person—
- (a) as the person’s residence for the purpose of undertaking a full-time course of further or higher education; 10
 - (b) as a women’s refuge, or
 - (c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

Other general interpretation provisions 15

196 Meaning of “appropriate national authority”, “local housing authority” etc.

- (1) In this Act “the appropriate national authority” means—
- (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the National Assembly for Wales.
- (2) In this Act “local housing authority” means, in relation to England— 20
- (a) a unitary authority;
 - (b) a district council so far as it is not a unitary authority;
 - (c) a London borough council;
 - (d) the Common Council of the City of London (in its capacity as a local authority); 25
 - (e) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple (in his capacity as a local authority); and
 - (f) the Council of the Isles of Scilly.
- (3) In subsection (2) “unitary authority” means—
- (a) the council of a county so far as it is the council for an area for which there are no district councils; 30
 - (b) the council of any district comprised in an area for which there is no county council.
- (4) In this Act “local housing authority” means, in relation to Wales, a county council or a county borough council. 35
- (5) References in this Act to “the local housing authority”, in relation to land, are to the local housing authority in whose district the land is situated.
- (6) References in this Act to the district of a local housing authority are to the area of the council concerned, that is to say—
- (a) in the case of a unitary authority, the area or district; 40
 - (b) in the case of a district council so far as it is not a unitary authority, the district;

- (c) in the case of an authority within subsection (1)(c) to (f), the London borough, the City of London, the Inner or Middle Temple or the Isles of Scilly (as the case may be); and
 - (d) in the case of a Welsh county council or a county borough council, the Welsh county or county borough. 5
- (7) Section 618 of the Housing Act 1985 (c. 68) (committees and members of Common Council of City of London) applies in relation to this Act as it applies in relation to that Act.

197 Meaning of “lease”, “tenancy”, “occupier” and “owner” etc.

- (1) In this Act “lease” and “tenancy” have the same meaning. 10
- (2) Both expressions include—
 - (a) a sub-lease or sub-tenancy; and
 - (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).
- (3) The expressions “lessor” and “lessee” and “landlord” and “tenant” and references to letting, to the grant of a lease or to covenants or terms, are to be construed accordingly. 15
- (4) In this Act “lessee” includes a statutory tenant of the premises; and references to a lease or to a person to whom premises are let are to be construed accordingly.
- (5) In this Act any reference to a person who is a tenant under a lease with an unexpired term of 3 years or less includes a statutory tenant as well as a tenant under a yearly or other periodic tenancy. 20
- (6) In this Act “occupier”, in relation to premises, means a person who—
 - (a) occupies the premises as a residence, and
 - (b) (subject to the context) so occupies them whether as a tenant or other person having an estate or interest in the premises or as a licensee; 25
 and related expressions are to be construed accordingly.
 This subsection does not apply for the purposes of Part 5 or sections 177 and 178.
- (7) In this Act “owner”, in relation to premises— 30
 - (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion; and
 - (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds 3 years. 35
- (8) In this Act “person having an estate or interest”, in relation to premises, includes a statutory tenant of the premises.
- (9) In this Act “licence”, in the context of a licence to occupy premises—
 - (a) includes a licence which is not granted for a consideration, but
 - (b) excludes a licence granted as a temporary expedient to a person who entered the premises as a trespasser (whether or not, before the grant of the licence, another licence to occupy those or other premises had been granted to him); 40
 and related expressions are to be construed accordingly.

198 Meaning of “person having control” and “person managing” etc.

- (1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent. 5
- (2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.
- (3) In this Act “person managing” means, in relation to premises, the person who, being an owner or lessee of the premises –
 - (a) receives (whether directly or through an agent or trustee) rents or other payments from –
 - (i) in the case of a house in multiple occupation, persons who are tenants or licensees of parts of the premises; and
 - (ii) in the case of a house to which Part 3 applies (see section 66(2)), persons who are tenants or licensees of parts of the premises, or of the whole of the premises; or
 - (b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments; 20and includes, where those rents or other payments are received through another person as agent or trustee, that other person.
- (4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii). 25
- (5) References in this Act to any person involved in the management of a house in multiple occupation or a Part 3 house (see section 66(2)) include references to the person managing it.

Final provisions

199 Minor and consequential amendments 30

- (1) Schedule 10 (which contains minor and consequential amendments) has effect.
- (2) The Secretary of State may by order make such supplementary, incidental or consequential provision as he considers appropriate –
 - (a) for the general purposes, or any particular purpose, of this Act; or
 - (b) in consequence of any provision made by or under this Act or for giving full effect to it. 35
- (3) An order under subsection (2) may modify any enactment (including this Act). “Enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (4) The power conferred by subsection (2) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly. 40
- (5) Nothing in this Act affects the generality of the power conferred by this section.

200 Repeals

Schedule 11 (which contains repeals) has effect.

201 Devolution: Wales

In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) references to the following Acts are to be treated as references to those Acts as amended by virtue of this Act – 5

- (a) the Housing Act 1985 (c. 68);
- (b) the Housing Act 1988 (c. 50);
- (c) the Housing Act 1996 (c. 52).

202 The Isles of Scilly 10

- (1) This Secretary of State may by order provide that, in its application to the Isles of Scilly, this Act is have effect with such modifications as are specified in the order.
- (2) Where a similar power is exercisable under another Act in relation to provisions of that Act which are amended by this Act, the power is exercisable in relation to those provisions as so amended. 15

203 Expenses

There shall be paid out of money provided by Parliament –

- (a) any expenditure incurred by the Secretary of State by virtue of this Act;
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment. 20

204 Short title, commencement and extent

- (1) This Act may be cited as the Housing Act 2004.
- (2) The following provisions come into force on the day on which this Act is passed – 25
 - (a) sections 8, 143, 154, 187, 199(2) to (5), 201 to 203 and this section, and
 - (b) any other provision of this Act so far as it confers any power to make an order or regulations which is exercisable by the Secretary of State or the National Assembly for Wales.
- (3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed – 30
 - (a) sections 147 to 153, 158 to 167, 171, 172, 181 to 186 and 188 to 198, and
 - (b) Schedule 9.
- (4) Parts 1 to 4, and sections 146, 155 to 157, 168, 170, 173 to 180, 199(1) and 200 and Schedules 10 and 11, come into force – 35
 - (a) in relation to Wales, on such day as the National Assembly for Wales may by order appoint, and
 - (b) otherwise, on such day as the Secretary of State may by order appoint.
- (5) Part 5 (other than section 143) comes into force on such day as the Secretary of State may by order appoint. 40

- (6) Section 169 and Schedule 8 come into force on such day as the National Assembly for Wales may by order appoint.
- (7) Different days may be appointed for different purposes or different areas under subsection (4), (5) or (6).
- (8) The Secretary of State may by order make such provision as he considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act. 5
- (9) The power conferred by subsection (8) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly 10
- (10) This Act extends to England and Wales only.

SCHEDULES

SCHEDULE 1

Section 16

PROCEDURE AND APPEALS RELATING TO IMPROVEMENT NOTICES

PART 1

SERVICE OF IMPROVEMENT NOTICES

5

Service of improvement notices: premises licensed under Part 2 or 3

- 1 (1) This paragraph applies where the specified premises in the case of an improvement notice are –
 - (a) a dwelling which is licensed under Part 3 of this Act, or
 - (b) an HMO which is licensed under Part 2 or 3 of this Act.
- (2) The local housing authority must serve the notice on the holder of the licence under that Part.

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Service of improvement notices: premises which are neither licensed under Part 2 or 3 nor flats

- 2 (1) This paragraph applies where the specified premises in the case of an improvement notice are –
 - (a) a dwelling which is not licensed under Part 3 of this Act, or
 - (b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is not a flat.
- (2) The local housing authority must serve the notice –
 - (a) (in the case of a dwelling) on the person having control of the dwelling;
 - (b) (in the case of an HMO) either on the person having control of the HMO or on the person managing it.

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Service of improvement notices: flats which are not licensed under Part 2 or 3

- 3 (1) This paragraph applies where any specified premises in the case of an improvement notice are –
 - (a) a dwelling which is not licensed under Part 3 of this Act, or
 - (b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is a flat.
- (2) In the case of dwelling which is a flat, the local housing authority must serve the notice on a person who –
 - (a) is an owner of the flat, and
 - (b) in the authority's opinion ought to take the action specified in the notice.

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- (3) In the case of an HMO which is a flat, the local housing authority must serve the notice either on a person who –
- (a) is an owner of the flat, and
 - (b) in the authority’s opinion ought to take the action specified in the notice,
- or on the person managing the flat.

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Service of improvement notices: common parts

- 4 (1) This paragraph applies where any specified premises in the case of an improvement notice are –
- (a) common parts of a building containing one or more flats; or
 - (b) any part of such a building which does not consist of residential premises.
- (2) The local housing authority must serve the notice on a person who –
- (a) is an owner of the specified premises concerned, and
 - (b) in the authority’s opinion ought to take the action specified in the notice.
- (3) For the purposes of this paragraph a person is an owner of any common parts of a building if he is an owner of the building or part of the building concerned, or (in the case of external common parts) of the particular premises in which the common parts are comprised.

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Service of copies of improvement notices

- 5 (1) In addition to serving an improvement notice in accordance with any of paragraphs 1 to 4, the local housing authority must serve a copy of the notice on every other person who, to their knowledge –
- (a) has a relevant interest in any specified premises, or
 - (b) is an occupier of any such premises.
- (2) A “relevant interest” means an interest as freeholder, mortgagee or lessee.
- (3) For the purposes of this paragraph a person has a relevant interest in any common parts of a building if he has a relevant interest in the building or part of the building concerned, or (in the case of external common parts) in the particular premises in which the common parts are comprised.
- (4) The copies required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the notice is served.

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PART 2

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SERVICE OF NOTICES RELATING TO REVOCATION OR VARIATION OF IMPROVEMENT NOTICE

Notice of revocation or variation

- 6 (1) This paragraph applies where the local housing authority decide to revoke or vary an improvement notice.
- (2) The authority must serve –
- (a) a notice under this paragraph, and
 - (b) copies of that notice,

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on the persons on whom they would be required under Part 1 of this Schedule to serve an improvement notice and copies of it in respect of the specified premises.

- (3) Sub-paragraph (4) applies if, in so doing, the authority serve a notice under this paragraph on a person who is not the person on whom the improvement notice was served (“the original recipient”). 5
- (4) The authority must serve a copy of the notice under this paragraph on the original recipient unless they consider that it would not be appropriate to do so.
- (5) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 10
- 7 A notice under paragraph 6 must set out –
- (a) the authority’s decision to revoke or vary the improvement notice;
 - (b) the reasons for the decision and the date on which it was made; 15
 - (c) if the decision is to vary the notice –
 - (i) the right of appeal against the decision under Part 3 of this Schedule, and
 - (ii) the period within which an appeal may be made (see paragraph 14(2)). 20

Notice of refusal to revoke or vary notice

- 8 (1) This paragraph applies where the local housing authority refuse to revoke or vary an improvement notice.
- (2) The authority must serve –
- (a) a notice under this paragraph, and 25
 - (b) copies of that notice,
- on the persons on whom they would be required to serve an improvement notice and copies of it under Part 1 of this Schedule.
- (3) Sub-paragraph (4) applies if, in so doing, the authority serve a notice under this paragraph on a person who is not the person on whom the improvement notice was served (“the original recipient”). 30
- (4) The authority must serve a copy of the notice under this paragraph on the original recipient unless they consider that it would not be appropriate to do so.
- (5) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 35
- 9 A notice under paragraph 8 must set out –
- (a) the authority’s decision not to revoke or vary the improvement notice; 40
 - (b) the reasons for the decision and the date on which it was made;
 - (c) the right of appeal against the decision under Part 3 of this Schedule; and
 - (d) the period within which an appeal may be made (see paragraph 14(2)). 45

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 county court against the notice. 5
- (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 – 10
- (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. 15
- 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. 20
- (2) The courses of action are –
- (a) making a prohibition order under section 18 or 19 of this Act;
- (b) serving a hazard awareness notice under section 26 or 27 of this Act; and 25
- (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 county court against – 30
- (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 – 35
- (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.

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. 40

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- (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) The court may allow a person to make an appeal after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied – 5
- (a) where permission is sought before the end of that period, that there is a good reason why that person is unable to make the appeal in time;
- (b) where permission is sought after that time, that there was a good reason for that person’s failure to make the appeal in time and for any delay in applying for permission. 10

Powers of court on appeal under paragraph 10

- 15 (1) This paragraph applies to an appeal to a county court under paragraph 10.
- (2) The appeal – 15
- (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.
- Paragraph (a) applies despite any provision of Civil Procedure Rules.
- (3) The court 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. 20
- 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 court may – 25
- (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. 30
- (3) In the exercise of its powers under sub-paragraph (2), the court must take into account, as between the appellant and any such owner – 35
- (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 court’s powers under sub-paragraph (2), a person other than the appellant is required to take the action specified in an improvement notice. 40
- (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). 45

- 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 court must have regard to any guidance given to the local housing authority under section 8. 5
- (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. 10
- (4) The judge must, if requested to do so by the appellant or the local housing authority, include in his judgment a finding to that effect and identifying the course of action concerned. 15

Powers of court on appeal under paragraph 13

- 18 (1) This paragraph applies to an appeal to a county court under paragraph 13.
- (2) Paragraph 15(2) applies to such an appeal as it applies to an appeal under paragraph 10.
- (3) The court may by order confirm, reverse or vary the decision of the local housing authority. 20
- (4) If the appeal is against a decision of the authority to refuse to revoke an improvement notice, the court may make an order revoking the notice as from a date specified in the order.

“The operative time” for the purposes of section 14(5) 25

- 19 (1) This paragraph defines “the operative time” for the purposes of section 14(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 – 30
- (a) if the period within which an appeal to the Court of Appeal 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 Court of Appeal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the notice. 35
- (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 –
- (a) the time that would be the operative time under sub-paragraph (2) if the notice were not suspended, or 40
- (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 45

- (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 13(7)

- 20 (1) This paragraph defines “the operative time” for the purposes of section 13(7) (postponement of time when a variation of an improvement notice comes into force). 5
- (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 – 10
- (a) if the period within which an appeal to the Court of Appeal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period; 15
- (b) if an appeal to the Court of Appeal 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) – 20
- (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.

SCHEDULE 2

Section 25

PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS 25

PART 1

SERVICE OF COPIES OF PROHIBITION ORDERS

Service on owners and occupiers of dwelling or HMO which is not a flat

- 1 (1) This paragraph applies to a prohibition order where the specified premises are a dwelling or HMO which is not a flat. 30
- (2) The authority must serve copies of the order on every person who, to their knowledge, is –
- (a) an owner or occupier of the whole or part of the specified premises;
- (b) entitled or authorised to permit persons to occupy the whole or part of those premises; or 35
- (c) a mortgagee of the whole or part of those premises.
- (3) The copies required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the order is made.
- (4) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (3) if a copy of the 40

order is fixed to some conspicuous part of the specified premises within the period of seven days mentioned in sub-paragraph (3).

Service on owners and occupiers of building containing flats etc.

- 2 (1) This paragraph applies to a prohibition order where the specified premises consist of or include the whole or any part of a building containing one or more flats or any common parts of such a building. 5
- (2) The authority must serve copies of the order on every person who, to their knowledge, is –
- (a) an owner or occupier of the whole or part of the building;
 - (b) entitled or authorised to permit persons to occupy the whole or part of the building; or 10
 - (c) a mortgagee of the whole or part of the building.
- (3) Where the specified premises consist of or include any external common parts of such a building, the authority must, in addition to complying with sub-paragraph (1), serve copies of the order on every person who, to their knowledge, is an owner or mortgagee of the premises in which the common parts are comprised. 15
- (4) The copies required to be served under sub-paragraph (2) or (3) must be served within the period of seven days beginning with the day on which the order is made. 20
- (5) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (4) if a copy of the order is fixed to some conspicuous part of the building within the period of seven days mentioned in sub-paragraph (4).

PART 2 25

SERVICE OF NOTICES RELATING TO REVOCATION OR VARIATION OF PROHIBITION ORDER

Notice of revocation or variation

- 3 (1) This paragraph applies where the local housing authority decide to revoke or vary a prohibition order.
- (2) The authority must serve a notice under this paragraph on each of the persons on whom they would be required under Part 1 of this Schedule to serve copies of a prohibition order in respect of the specified premises. 30
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 35
- (4) Paragraph 1(4) applies in relation to the service of notices on occupiers in accordance with sub-paragraphs (2) and (3) as it applies in relation to the service on them of copies of a prohibition order in accordance with paragraph 1(2)(a) and (3).
- 4 A notice under paragraph 3 must set out – 40
- (a) the authority’s decision to revoke or vary the order;
 - (b) the reasons for the decision and the date on which it was made;
 - (c) if the decision is to vary the order –

- (i) the right of appeal against the decision under Part 3 of this Schedule; and
- (ii) the period within which an appeal may be made (see paragraph 10(2)).

Notice of refusal to revoke or vary order 5

- 5 (1) This paragraph applies where the local housing authority refuse to revoke or vary a prohibition order.
- (2) The authority must serve a notice under this paragraph on each of the persons on whom they would be required under Part 1 of this Schedule to serve copies of a prohibition order in respect of the specified premises. 10
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- (4) Paragraph 1(4) applies in relation to the service of notices on occupiers in accordance with sub-paragraphs (2) and (3) as it applies in relation to the service on them of copies of a prohibition order in accordance with paragraph 1(2)(a) and (3). 15
- 6 A notice under paragraph 5 must set out—
- (a) the authority’s decision not to revoke or vary the notice;
 - (b) the reasons for the decision and the date on which it was made; 20
 - (c) the right of appeal against the decision under Part 3 of this Schedule; and
 - (d) the period within which an appeal may be made (see paragraph 10(2)).

PART 3 25

APPEALS RELATING TO PROHIBITION ORDERS

Appeal against prohibition order

- 7 (1) A relevant person may appeal to a county court 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). 30
- 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. 35
- (2) The courses of action are—
- (a) serving an improvement notice under section 9 or 10 of this Act;
 - (b) serving a hazard awareness notice under section 26 or 27 of this Act;
 - (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68). 40

Appeal against decision relating to revocation or variation of prohibition order

- 9 A relevant person may appeal to a county court 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.

Time limit for appeal 5

- 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. 10
- (3) The court may allow a person to make an appeal after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied –
- (a) where permission is sought before the end of that period, that there is a good reason why that person is unable to make the appeal in time; 15
 - (b) where permission is sought after that time, that there was a good reason for that person’s failure to make the appeal in time and for any delay in applying for permission.

Powers of court on appeal under paragraph 7 20

- 11 (1) This paragraph applies to an appeal to a county court 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. 25
- Paragraph (a) applies despite any provision of Civil Procedure Rules.
- (3) The court 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.
- 12 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 8. 30
- (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 court must have regard to any guidance given to the local housing authority under section 8. 35
- (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. 40
- (4) The judge must, if requested to do so by the appellant or the local housing authority, include in his judgment a finding to that effect and identifying the course of action concerned.

Powers of court on appeal under paragraph 9

- 13 (1) This paragraph applies to an appeal to a county court under paragraph 9.
 (2) Paragraph 11(2) applies to such an appeal as it applies to an appeal under paragraph 7.
 (3) The court may by order confirm, reverse or vary the decision of the local housing authority. 5
 (4) If the appeal is against a decision of the authority to refuse to revoke a prohibition order, the court may make an order revoking the prohibition order as from a date specified in its order.

“The operative time” for the purposes of section 22(5) 10

- 14 (1) This paragraph defines “the operative time” for the purposes of section 22(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 – 15
 (a) if the period within which an appeal to the Court of Appeal 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 Court of Appeal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order. 20
 (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 25
 (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 30
 (b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

“The operative time” for the purposes of section 23(7)

- 15 (1) This paragraph defines “the operative time” for the purposes of section 23(7) (revocation or variation of prohibition orders). 35
 (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 – 40
 (a) if the period within which an appeal to the Court of Appeal 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 Court of Appeal 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 5
 - (b) references to a decision which confirms the variation are to a decision which confirms it with or without variation.

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 – 10
- (a) an owner or occupier of the whole or part of the specified premises,
 - (b) entitled or 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. 15
- (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.

SCHEDULE 3

Section 29 20

IMPROVEMENT NOTICES: ENFORCEMENT ACTION BY LOCAL HOUSING AUTHORITIES

PART 1

TAKING OF ACTION BY AGREEMENT

Power to take action by agreement

- 1 (1) The local housing authority may, by agreement with the person on whom an improvement notice has been served, take any action which that person is required to take in relation to any premises in pursuance of the notice. 25
- (2) For that purpose the authority have all the rights which that person would have against any occupying tenant of, and any other person having an interest in, the premises (or any part of the premises). 30
- (3) In this paragraph –
- “improvement notice” means an improvement notice which has become operative under Chapter 2 of Part 1 of this Act;
 - “occupying tenant”, in relation to any premises, means a person (other than an owner-occupier) who – 35
 - (a) occupies or is entitled to occupy the premises as a lessee;
 - (b) is a statutory tenant of the premises;
 - (c) occupies the premises under a restricted contract;
 - (d) is a protected occupier within the meaning of the Rent (Agriculture) Act 1976 (c. 80); or 40
 - (e) is a licensee under an assured agricultural occupancy;

“owner-occupier”, in relation to any premises, means the person who occupies or is entitled to occupy the premises as owner or lessee under a long tenancy (within the meaning of Part 1 of the Leasehold Reform Act 1967 (c. 88)).

Expenses of taking action by agreement 5

- 2 Any action taken by the local housing authority under paragraph 1 is to be taken at the expense of the person on whom the notice is served.

PART 2

POWERS TO TAKE ACTION WITHOUT AGREEMENT

Power to take action without agreement 10

- 3 (1) The local housing authority may themselves take the action required to be taken in relation to a hazard by an improvement notice if sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if the notice is not complied with in relation to that hazard. 15
- (3) This sub-paragraph applies if, before the end of the period which under section 28(2) is appropriate for completion of the action specified in the notice in relation to the hazard, they consider that reasonable progress is not being made towards compliance with the notice in relation to the hazard.
- (4) In this paragraph “improvement notice” means an improvement notice which has become operative under Chapter 2 of Part 1 of this Act. 20

Notice requirements in relation to taking action without agreement

- 4 (1) The local housing authority must serve a notice under this paragraph before they enter any premises under paragraph 3 for the purpose of taking action in relation to a hazard. 25
- (2) The notice must identify the improvement notice to which it relates and state—
- (a) the premises and hazard concerned;
- (b) that the authority intend to enter the premises;
- (c) the action which the authority intend to take on the premises; and 30
- (d) the power under which the authority intend to enter the premises and take the action.
- (3) The notice must be served on the person on whom the improvement notice was served.
- (4) A copy of the notice may also be served on any owner of the premises. 35

Obstruction of action taken without agreement

- 5 (1) If, at any relevant time—
- (a) the person on whom the notice under paragraph 4 was served is on the premises for the purpose of carrying out any works, or
- (b) any workman employed by that person, or by any contractor employed by that person, is on the premises for such a purpose, 40

- that person is to be taken to have committed an offence under section 179(1).
- (2) In proceedings for such an offence it is a defence that there was an urgent necessity to carry out the works in order to prevent danger to persons occupying the premises.
- (3) In sub-paragraph (1) “relevant time” means any time – 5
- (a) after the end of the period of 7 days beginning with the date of service of the notice under paragraph 4, and
- (b) when any workman or contractor employed by the local housing authority is taking action on the premises which has been mentioned in the notice in accordance with paragraph 4(2)(c). 10

Expenses in relation to taking action without agreement

- 6 (1) Part 3 of this Schedule applies with respect to the recovery by the local housing authority of expenses incurred by them in taking action under paragraph 3.
- (2) Sub-paragraph (3) applies where, after a local housing authority have given notice under paragraph 4 of their intention to enter premises and take action, the action is in fact taken by the person on whom the improvement notice is served. 15
- (3) Any administrative and other expenses incurred by the authority with a view to themselves taking the action are to be treated for the purposes of Part 3 of this Schedule as expenses incurred by them in taking action under paragraph 3. 20

PART 3

RECOVERY OF CERTAIN EXPENSES

Introductory 25

- 7 This Part of this Schedule applies for the purpose of enabling a local housing authority to recover expenses reasonably incurred by them in taking action under paragraph 3.

Recovery of expenses

- 8 (1) The expenses are recoverable by the local housing authority from the person on whom the improvement notice was served (“the relevant person”). 30
- (2) Where the relevant person receives the rent of the premises as agent or trustee for another person, the expenses are also recoverable by the local housing authority from the other person, or partly from him and partly from the relevant person. 35
- (3) Sub-paragraph (4) applies where the relevant person proves in connection with a demand under paragraph 9 –
- (a) that sub-paragraph (2) applies, and
- (b) that he has not, and since the date of the service on him of the demand has not had, in his hands on behalf of the other person sufficient money to discharge the whole demand of the local housing authority. 40

-
- (4) The liability of the relevant person is limited to the total amount of the money which he has, or has had, in his hands as mentioned in sub-paragraph (3)(b).
- (5) Expenses are not recoverable under this paragraph so far as they are, by any direction of a court on appeal, recoverable under an order of the court. 5

Service of demand

- 9 (1) A demand for expenses recoverable under paragraph 8, together with interest in accordance with paragraph 10, must be served on each person from whom the local housing authority are seeking to recover them.
- (2) If no appeal is brought, the demand becomes operative at the end of the period of 21 days beginning with the date of service of the demand. 10
- (3) A demand which becomes operative under sub-paragraph (2) is final and conclusive as to matters which could have been raised on an appeal.
- (4) Paragraph 11 deals with appeals against demands.

Interest 15

- 10 Expenses in respect of which a demand is served carry interest, at such reasonable rate as the local housing authority may determine, from the date of service until payment of all sums due under the demand.

Appeals

- 11 (1) A person on whom a demand for the recovery of expenses has been served may appeal to a county court against the demand. 20
- (2) An appeal must be made within the period of 21 days beginning with the date of service of the demand or copy of it under paragraph 9.
- (3) Where the demand relates to action taken by virtue of paragraph 3(3), an appeal may be brought on the ground that reasonable progress was being made towards compliance with the improvement notice when the local housing authority gave notice under paragraph 4 of their intention to enter and take the action. 25
 This does not affect the generality of sub-paragraph (1).
- (4) The court may, on an appeal, make such order confirming, quashing or varying the demand as it considers appropriate. 30
- (5) A demand against which an appeal is brought becomes operative as follows—
- (a) if a decision is given on the appeal which confirms the demand and the period within which an appeal to the Court of Appeal may be brought expires without such an appeal having been brought, the demand becomes operative at end of that period; 35
- (b) if an appeal to the Court of Appeal is brought and a decision is given on the appeal which confirms the demand, the demand becomes operative at the time of that decision. 40
- (6) For the purposes of sub-paragraph (5)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the demand, and

- (b) references to a decision which confirms the demand are to a decision which confirms it with or without variation.
- (7) No question may be raised on appeal under this paragraph which might have been raised on an appeal against the improvement notice.

Expenses and interest recoverable from occupiers 5

- 12 (1) Where a demand becomes operative by virtue of paragraph 9(2) or 11(5), the local housing authority may serve a recovery notice on any person –
- (a) who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 9(1); and 10
 - (b) who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served.
- (2) A recovery notice is a notice –
- (a) stating the amount of expenses recoverable by the local housing authority; and 15
 - (b) requiring all future payments by the tenant or licensee of rent or sums in the nature of rent (whether already accrued due or not) to be made direct to the authority until the expenses recoverable by the authority, together with any accrued interest on them, have been duly paid. 20
- (3) In the case of a demand which was served on any person as agent or trustee for another person (“the principal”), sub-paragraph (1) has effect as if the references in paragraphs (a) and (b) to the person on whom the demand was served were references to that person or the principal.
- (4) The effect of a recovery notice, once served under sub-paragraph (1), is to transfer to the local housing authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent. 25
- (5) This is subject to any direction to the contrary contained in a further notice served by the local housing authority on the tenant or licensee.
- (6) In addition, the right to recover, receive and give a discharge for any rent or sums in the nature of rent is postponed to any right in respect of that rent or those sums which may at any time be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908 (c. 53). 30

Expenses and interest to be a charge on the premises 35

- 13 (1) Until recovered, the expenses recoverable by the local housing authority, together with any accrued interest on them, are a charge on the premises to which the improvement notice related.
- (2) The charge takes effect when the demand for the expenses and interest becomes operative by virtue of paragraph 9(2) or 11(5). 40
- (3) For the purpose of enforcing the charge, the local housing authority have the same powers and remedies, under the Law of Property Act 1925 (c. 20) and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (4) The power of appointing a receiver is exercisable at any time after the end of one month beginning with the date when the charge takes effect. 45

Recovery of expenses and interest from other persons profiting from taking of action

- 14 (1) Sub-paragraph (2) applies if, on an application to a county court, the local housing authority satisfy the court that—
- (a) the expenses and interest have not been and are unlikely to be recovered; and 5
 - (b) a person is profiting by the taking of the action under paragraph 3 in respect of which the expenses were incurred in that he is obtaining rents or other payments which would not have been obtainable if the number of persons living in the premises was limited to that appropriate for the premises in their state before the action was taken. 10
- (2) The court may, if satisfied that the person concerned has had proper notice of the application, order him to make such payments to the local housing authority as the court considers to be just.

SCHEDULE 4

Sections 56 and 77 15

LICENCES UNDER PARTS 2 AND 3: MANDATORY CONDITIONS

Conditions to be included in licences under Part 2 or 3

- 1 (1) A licence under Part 2 or 3 must include the following conditions.
- (2) Conditions requiring the licence holder, if gas is supplied to the house, to produce to the local housing authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months. 20
 - (3) Conditions requiring the licence holder—
 - (a) to keep electrical appliances and furniture made available by him in the house in a safe condition;
 - (b) to supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture. 25
 - (4) Conditions requiring the licence holder—
 - (a) to keep smoke alarms in the house in proper working order;
 - (b) to supply the authority, on demand, with a declaration by him as to the condition and positioning of such alarms. 30
 - (5) Conditions requiring the licence holder to supply to the occupier of the house a written statement of the terms on which they occupy it.

Additional conditions to be included in licences under Part 3

- 2 A licence under Part 3 must include conditions requiring the licence holder to demand references from persons who wish to occupy the house. 35

Power to prescribe conditions

- 3 The appropriate national authority may by regulations amend this Schedule so as to alter (by the addition or removal of conditions) the conditions which must be included—
- (a) in a licence under Part 2 or 3, or 40

- (b) only in a licence under one of those Parts.

Interpretation

- 4 In this Schedule “the house” means the HMO or Part 3 house in respect of which the licence is granted.

SCHEDULE 5

Sections 60 and 81

5

LICENCES UNDER PARTS 2 AND 3: PROCEDURE AND APPEALS

PART 1

PROCEDURE RELATING TO GRANT OR REFUSAL OF LICENCES

Requirements before grant of licence

- 1 Before granting a licence, the local housing authority must— 10
- (a) serve a notice under this paragraph, together with a copy of the proposed licence, on the applicant for the licence and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn. 15
- 2 The notice under paragraph 1 must state that the authority are proposing to grant the licence and set out—
- (a) the reasons for granting the licence,
 - (b) the main terms of the licence, and
 - (c) the end of the consultation period. 20
- 3 (1) This paragraph applies if, having considered representations made in accordance with a notice under paragraph 1 or this paragraph, the local housing authority propose to grant a licence with modifications.
- (2) Before granting the licence the authority must—
- (a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and 25
 - (b) consider any representations made in accordance with the notice and not withdrawn.
- 4 The notice under paragraph 3 must set out—
- (a) the proposed modifications, 30
 - (b) the reasons for them, and
 - (c) the end of the consultation period.

Requirements before refusal to grant licence

- 5 Before refusing to grant a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and 35
 - (b) consider any representations made in accordance with the notice and not withdrawn.

- 6 The notice under paragraph 5 must state that the local housing authority are proposing to refuse to grant the licence and set out –
- (a) the reasons for refusing to grant the licence, and
 - (b) the end of the consultation period.

Requirements following grant or refusal of licence 5

- 7 (1) This paragraph applies where the local housing authority decide to grant a licence.
- (2) The local housing authority must serve on the applicant for the licence (and, if different, the licence holder) and each relevant person –
- (a) a copy of the licence, and 10
 - (b) a notice setting out –
 - (i) the reasons for deciding to grant the licence and the date on which the decision was made,
 - (ii) the right of appeal against the decision under Part 3 of this Schedule, and 15
 - (iii) the period within which an appeal may be made (see paragraph 33(1)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 20

- 8 (1) This paragraph applies where the local housing authority refuse to grant a licence.
- (2) The local housing authority must serve on the applicant for the licence and each relevant person a notice setting out –
- (a) the authority’s decision not to grant the licence, 25
 - (b) the reasons for the decision and the date on which it was made,
 - (c) the right of appeal against the decision under Part 3 of this Schedule, and
 - (d) the period within which an appeal may be made (see paragraph 33(1)). 30
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Exceptions from requirements in relation to grant or refusal of licences

- 9 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority – 35
- (a) have already served a notice under paragraph 1 but not paragraph 3 in relation to the proposed licence, and
 - (b) consider that the modifications which are now being proposed are not material in any respect. 40
- 10 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority –
- (a) have already served notices under paragraphs 1 and 3 in relation to the matter concerned, and

- (b) consider that the further modifications which are now being proposed do not differ in any material respect from the modifications in relation to which a notice was last served under paragraph 3.

- 11 Paragraphs 5, 6 and 8 do not apply to a refusal to grant a licence on particular terms if the local housing authority are proposing to grant the licence on different terms. 5

Meaning of “the end of the consultation period”

- 12 (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question. 10
- (2) The end of the consultation period must be –
- (a) in the case of a notice under paragraph 1 or 5, a day which is at least 14 days after the date of service of the notice; and
 - (b) in the case of a notice under paragraph 3, a day which is at least 7 days after the date of service of the notice. 15
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

Meaning of “licence” and “relevant person”

- 13 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act. 20
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3)) –
- (a) who, to the knowledge of the local housing authority concerned, is – 25
 - (i) a person having an estate or interest in the HMO or Part 3 house in question, or
 - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
 - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 56(5) or 77(5). 30
- (3) The persons excluded by this sub-paragraph are –
- (a) the applicant for the licence and (if different) the licence holder, and
 - (b) any tenant under a lease with an unexpired term of 3 years or less.

PART 2 35

PROCEDURE RELATING TO VARIATION OR REVOCATION OF LICENCES

Variation of licences

- 14 Before varying a licence, the local housing authority must –
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and 40
 - (b) consider any representations made in accordance with the notice and not withdrawn.

-
- 15 The notice under paragraph 14 must state that the local housing authority are proposing to make the variation and set out –
- (a) the effect of the variation,
 - (b) the reasons for the variation, and
 - (c) the end of the consultation period. 5
- 16 (1) This paragraph applies where the local housing authority decide to vary a licence.
- (2) The local housing authority must serve on the licence holder and each relevant person –
- (a) a copy of the authority’s decision to vary the licence, and 10
 - (b) a notice setting out –
 - (i) the reasons for the decision and the date on which it was made,
 - (ii) the right of appeal against the decision under Part 3 of this Schedule, and 15
 - (iii) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 20

Exceptions from requirements of paragraph 14

- 17 The requirements of paragraph 14 do not apply if –
- (a) the local housing authority consider that the variation is not material, or
 - (b) the variation is agreed by the licence holder and the local housing authority consider that it would not be appropriate to comply with the requirements of that paragraph. 25
- 18 The requirements of paragraph 14 do not apply if the local housing authority –
- (a) have already served a notice under that paragraph in relation to a proposed variation, and 30
 - (b) consider that the variation which is now being proposed is not materially different from the previous proposed variation.

Refusal to vary a licence

- 19 Before refusing to vary a licence, the local housing authority must – 35
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.
- 20 The notice under paragraph 19 must state that the authority are proposing to refuse to vary the licence and set out – 40
- (a) the reasons for refusing to vary the licence, and
 - (b) the end of the consultation period.

- 21 (1) This paragraph applies where the local housing authority refuse to vary a licence.
- (2) The authority must serve on the licence holder and each relevant person a notice setting out –
- (a) the authority’s decision not to vary the licence, 5
 - (b) the reasons for the decision and the date on which it was made,
 - (c) the right of appeal against the decision under Part 3 of this Schedule, and
 - (d) the period within which an appeal may be made (see paragraph 33(2)). 10
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Revocation of licences

- 22 Before revoking a licence, the local housing authority must – 15
- (a) serve a notice on the licence holder under this paragraph and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.
- 23 The notice under paragraph 22 must state that the authority are proposing to revoke the licence and set out – 20
- (a) the reasons for the revocation, and
 - (b) the end of the consultation period.
- 24 (1) This paragraph applies where the local housing authority decide to revoke a licence. 25
- (2) The authority must serve on the licence holder and each relevant person –
- (a) a copy of the authority’s decision to revoke the licence, and
 - (b) a notice setting out –
 - (i) the reasons for the decision and the date on which it was made, 30
 - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
 - (iii) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 35

Exception from requirements of paragraph 22

- 25 The requirements of paragraph 22 do not apply if the revocation is agreed by the licence holder and the local housing authority consider that it would not be appropriate to comply with the requirements of that paragraph. 40

Refusal to revoke a licence

- 26 Before refusing to revoke a licence, the local housing authority must –

-
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
- (b) consider any representations made in accordance with the notice and not withdrawn.
- 27 The notice under paragraph 26 must state that the authority are proposing to refuse to revoke the licence and set out – 5
- (a) the reasons for refusing to revoke the licence, and
- (b) the end of the consultation period.
- 28 (1) This paragraph applies where the local housing authority refuse to revoke a licence. 10
- (2) The authority must serve on the licence holder and each relevant person a notice setting out –
- (a) the authority’s decision not to revoke the licence,
- (b) the reasons for the decision and the date on which it was made,
- (c) the right of appeal against the decision under Part 3 of this Schedule, and 15
- (d) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 20

Meaning of “the end of the consultation period”

- 29 (1) In this Part of this Schedule “the end of the consultation period” means the last day on which representations may be made in respect of the matter in question. 25
- (2) That date must be at least 14 days after the date of service of the notice in question.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served. 30

Meaning of “licence” and “relevant person”

- 30 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3)) – 35
- (a) who, to the knowledge of the local housing authority concerned, is –
- (i) a person having an estate or interest in the HMO or Part 3 house in question, or
- (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or 40
- (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 56(5) or 77(5).
- (3) The persons excluded by this sub-paragraph are –
- (a) the licence holder, and 45

- (b) any tenant under a lease with an unexpired term of 3 years or less.

PART 3

APPEALS AGAINST LICENCE DECISIONS

Right to appeal against refusal or grant of licence

- 31 (1) The applicant or any relevant person may appeal to a county court against a decision by the local housing authority on an application for a licence – 5
- (a) to refuse to grant the licence, or
 - (b) to grant the licence.
- (2) An appeal under sub-paragraph (1)(b) may, in particular, relate to any of the terms of the licence. 10

Right to appeal against decision or refusal to vary or revoke licence

- 32 (1) The licence holder or any relevant person may appeal to a county court against a decision by the local housing authority –
- (a) to vary or revoke a licence, or
 - (b) to refuse to vary or revoke a licence. 15
- (2) But this does not apply to the licence holder in a case where the decision to vary or revoke the licence was made with his agreement.

Time limits for appeals

- 33 (1) Any appeal under paragraph 31 against a decision to grant, or (as the case may be) to refuse to grant, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made. 20
- (2) Any appeal under paragraph 32 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 16, 21, 24 or 28 as the date on which the decision was made. 25
- (3) The court may allow a person to make an appeal after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied –
- (a) where permission is sought before the end of that period, that there is a good reason why that person is unable to make the appeal in time; 30
 - (b) where permission is sought after that time, that there was a good reason for that person's failure to make the appeal in time and for any delay in applying for permission.

Powers of court hearing appeal 35

- 34 (1) This paragraph applies to appeals to a county court under paragraph 31 or 32.
- (2) An 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. 40

Paragraph (a) applies despite any provision of Civil Procedure Rules.

- (3) The court may confirm, reverse or vary the decision of the local housing authority.
- (4) On an appeal under paragraph 31 the court may direct the authority to grant a licence to the applicant for the licence on such terms as the court may direct. 5

“The operative time” for the purposes of section 58(6), 59(8), 79(3) or 80(5)

- 35 (1) This paragraph defines “the operative time” for the purposes of –
- (a) section 58(6) or 59(8) (variation or revocation of licence under Part 2 of this Act, or 10
- (b) section 79(3) or 80(5) (variation or revocation of licence under Part 3 of this Act.
- (2) If the period of 28 days mentioned in paragraph 33(2) has expired without an appeal having been made under paragraph 32, “the operative time” is the end of that period. 15
- (3) If an appeal is made under paragraph 32 within that period and a decision is given on the appeal which confirms the variation or revocation, “the operative time” is as follows –
- (a) if the period within which an appeal to the Court of Appeal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period; 20
- (b) if an appeal to the Court of Appeal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation.
- (4) For the purposes of sub-paragraph (3) – 25
- (a) the withdrawal of an appeal has the same effect as a decision confirming the variation or revocation appealed against; and
- (b) references to a decision which confirms a variation are to a decision which confirms it with or without variation.

Meaning of “licence” and “relevant person” 30

- 36 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3)) – 35
- (a) who is –
- (i) a person having an estate or interest in the HMO or Part 3 house concerned, or
- (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or 40
- (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 56(5) or 77(5).
- (3) The persons excluded by this sub-paragraph are –
- (a) the applicant for the licence and (if different) the licence holder, and
- (b) any tenant under a lease with an unexpired term of 3 years or less. 45

SCHEDULE 6

Section 105

MANAGEMENT ORDERS: PROCEDURE AND APPEALS

PART 1

PROCEDURE RELATING TO MAKING OF MANAGEMENT ORDERS

<i>Requirements before making final management order</i>	5
1 Before making a final management order, the local housing authority must –	
(a) serve a copy of the proposed order, together with a notice under this paragraph, on each relevant person; and	
(b) consider any representations made in accordance with the notice and not withdrawn.	10
2 The notice under paragraph 1 must state that the authority are proposing to make a final management order and set out –	
(a) the reasons for making the order;	
(b) the main terms of the proposed order (including those of the management scheme to be contained in it); and	15
(c) the end of the consultation period.	
3 (1) This paragraph applies if, having considered representations made in accordance with a notice under paragraph 1 or this paragraph, the local housing authority propose to make a final management order with modifications.	20
(2) Before making the order, the authority must –	
(a) serve a notice under this paragraph on each relevant person; and	
(b) consider any representations made in accordance with the notice and not withdrawn.	25
4 The notice under paragraph 3 must set out –	
(a) the proposed modifications;	
(b) the reasons for them; and	
(c) the end of the consultation period.	
<i>Exceptions from requirements relating to making of final management order</i>	30
5 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority –	
(a) have already served notice under paragraph 1 but not paragraph 3 in relation to the proposed final management order; and	
(b) consider that the modifications which are now being proposed are not material in any respect.	35
6 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority –	
(a) have already served notices under paragraphs 1 and 3 in relation to the matter concerned; and	40
(b) consider that the further modifications which are now being proposed do not differ in any material respect from the	

modifications in relation to which a notice was last served under paragraph 3.

Requirements following making of interim or final management order

- 7 (1) This paragraph applies where the local housing authority make an interim management order or a final management order. 5
- (2) As soon as practicable after the order is made, the authority must serve on the occupiers of the house –
- (a) a copy of the order, and
- (b) a notice under this sub-paragraph.
- (3) Those documents are to be regarded as having been served on the occupiers if they are fixed to a conspicuous part of the house. 10
- (4) The notice under sub-paragraph (2) must set out –
- (a) the reasons for making the order and the date on which it was made, and
- (b) the general effect of the order, 15
- and (if it is a final management order) give a general description of the way in which the house is to be managed by the authority in accordance with the management scheme contained in the order.
- (5) The authority must also serve a copy of the order, together with a notice under this sub-paragraph, on each relevant person. 20
- (6) The notice under sub-paragraph (5) must comply with sub-paragraph (4) and also contain information about –
- (a) the right of appeal against the order under Part 3 of this Schedule, and
- (b) the period within which an appeal may be made (see paragraph 25(2)). 25
- (7) The documents required to be served on each relevant person under sub-paragraph (5) must be served within the period of seven days beginning with the day on which the order is made.

Meaning of “the end of the consultation period” and “relevant person” 30

- 8 (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question.
- (2) The end of the consultation period must be –
- (a) in the case of a notice under paragraph 1, a day which is at least 14 days after the date of service of the notice; and 35
- (b) in the case of a notice under paragraph 3, a day which is at least 7 days after the date of service of the notice.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served. 40
- (4) In this Part of this Schedule “relevant person” means any person who, to the knowledge of the local housing authority, is –
- (a) a person having an estate or interest in the house or part of it (but who is not a tenant under a lease with an unexpired term of 3 years or less), or 45

- (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

PART 2

PROCEDURE RELATING TO VARIATION OR REVOCATION OF MANAGEMENT ORDERS

<i>Variation of management orders</i>	5	
9	Before varying an interim or final management order, the local housing authority must—	
	(a) serve a notice under this paragraph on each relevant person, and	
	(b) consider any representations made in accordance with the notice and not withdrawn.	10
10	The notice under paragraph 9 must state that the authority are proposing to make the variation and specify—	
	(a) the effect of the variation,	
	(b) the reasons for the variation, and	
	(c) the end of the consultation period.	15
11	(1) This paragraph applies where the local housing authority decide to vary an interim or final management order.	
	(2) The local housing authority must serve on each relevant person—	
	(a) a copy of the authority’s decision to vary the order, and	
	(b) a notice setting out—	20
	(i) the reasons for the decision and the date on which it was made,	
	(ii) the right of appeal against the decision under Part 3 of this Schedule, and	
	(iii) the period within which an appeal may be made (see paragraph 29(2)).	25
	(3) The documents required to be served on each relevant person under subparagraph (2) must be served within the period of seven days beginning with the day on which the decision is made.	
<i>Exceptions from requirements of paragraph 9</i>	30	
12	The requirements of paragraph 9 do not apply if the local housing authority consider that the variation is not material.	
13	The requirements of paragraph 9 do not apply if the local housing authority—	
	(a) have already served a notice under that paragraph in relation to a proposed variation; and	35
	(b) consider that the variation which is now being proposed is not materially different from the previous proposed variation.	
<i>Refusal to vary interim or final management order</i>		
14	Before refusing to vary an interim or final management order, the local housing authority must—	40

-
- (a) serve a notice under this paragraph on each relevant person, and
(b) consider any representations made in accordance with the notice and not withdrawn.
- 15 The notice under paragraph 14 must state that the authority are proposing to refuse to make the variation and set out – 5
- (a) the reasons for refusing to make the variation, and
(b) the end of the consultation period.
- 16 (1) This paragraph applies where the local housing authority refuse to vary an interim or final management order.
- (2) The authority must serve on each relevant person a notice setting out – 10
- (a) the authority’s decision not to vary the order;
(b) the reasons for the decision and the date on which it was made;
(c) the right of appeal against the decision under Part 3 of this Schedule; and
(d) the period within which an appeal may be made (see paragraph 29(2)). 15
- (3) The notices required to be served on each relevant person under subparagraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- Revocation of management orders* 20
- 17 Before revoking an interim or final management order, the local housing authority must –
- (a) serve a notice under this paragraph on each relevant person, and
(b) consider any representations made in accordance with the notice and not withdrawn. 25
- 18 The notice under paragraph 17 must state that the authority are proposing to revoke the order and specify –
- (a) the reasons for the revocation, and
(b) the end of the consultation period.
- 19 (1) This paragraph applies where the local housing authority decide to revoke an interim or final management order. 30
- (2) The authority must serve on each relevant person –
- (a) a copy of the authority’s decision to revoke the order; and
(b) a notice setting out – 35
- (i) the reasons for the decision and the date on which it was made;
(ii) the right of appeal against the decision under Part 3 of this Schedule; and
(iii) the period within which an appeal may be made (see paragraph 29(2)). 40
- (3) The documents required to be served on each relevant person under subparagraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Refusal to revoke management order

- 20 Before refusing to revoke an interim or final management order, the local housing authority must –
- (a) serve a notice under this paragraph on each relevant person; and
 - (b) consider any representations made in accordance with the notice and not withdrawn. 5
- 21 The notice under paragraph 20 must state that the authority are proposing to refuse to revoke the order and set out –
- (a) the reasons for refusing to revoke the order, and
 - (b) the end of the consultation period. 10
- 22 (1) This paragraph applies where the local housing authority refuse to revoke an interim or final management order.
- (2) The authority must serve on each relevant person a notice setting out –
- (a) the authority’s decision not to revoke the order;
 - (b) the reasons for the decision and the date on which it was made; 15
 - (c) the right of appeal against the decision under Part 3 of this Schedule; and
 - (d) the period within which an appeal may be made (see paragraph 29(2)).
- (3) The notices required to be served on each relevant person under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made. 20

Meaning of “the end of the consultation period” and “relevant person”

- 23 (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question. 25
- (2) The end of the consultation period must be a day which is at least 14 days after the date of service of the notice.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served. 30
- (4) In this Part of this Schedule “relevant person” means any person who, to the knowledge of the local housing authority, is –
- (a) a person having an estate or interest in the house or part of it (but who is not a tenant under a lease with an unexpired term of 3 years or less), or 35
 - (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

PART 3

APPEALS AGAINST DECISIONS RELATING TO MANAGEMENT ORDERS

Right to appeal against making of order etc. 40

- 24 (1) A relevant person may appeal to a county court against –

- (a) a decision of the local housing authority to make an interim or final management order, or
 - (b) the terms of such an order (including, if it is a final management order, those of the management scheme contained in it).
- (2) This does not apply to an interim management order made under section 87(4) or (7) or in accordance with a direction given by the court under paragraph 26(5). 5
- (3) If no appeal is brought against an interim or final management order under this paragraph within the time allowed by paragraph 25 for making such an appeal, the order is final and conclusive as to the matters which could have been raised on appeal. 10

Time limits for appeals under paragraph 24

- 25 (1) This paragraph applies in relation to an appeal under paragraph 24 in respect of an interim or final management order.
- (2) Any such appeal may be made within the period of 28 days beginning with the date specified in the notice under paragraph 7(2) as the date on which the order was made. 15
- (3) The court may allow a person to make an appeal after the end of the period of 28 days mentioned in sub-paragraph (2) if it is satisfied –
- (a) where permission is sought before the end of that period, that there is a good reason why that person is unable to make the appeal in time; 20
 - (b) where permission is sought after that time, that there was a good reason for that person's failure to make the appeal in time and for any delay in applying for permission. 25

Powers of court on appeal under paragraph 24

- 26 (1) This paragraph applies to an appeal under paragraph 24 in respect of an interim or final management order.
- (2) The appeal –
- (a) is to be by way of a re-hearing, but 30
 - (b) may be determined having regard to matters of which the authority were unaware.
- Paragraph (a) applies despite any provision of Civil Procedure Rules.
- (3) The court may confirm or vary the order or revoke it –
- (a) (in the case of an interim management order) as from a date specified in the court's order, or 35
 - (b) (in the case of a final management order) as from the date of the court's order.
- (4) If –
- (a) the court revokes an interim or final management order, 40
 - (b) it appears to the court that, on the revocation of the order, the house will be required to be licensed under Part 2 or 3 of this Act, and
 - (c) the court does not give a direction under sub-paragraph (5) or (6),
- the court must direct the local housing authority to grant such a licence to such person and on such terms as the court may direct. 45

- (5) If the court revokes a final management order, the court may direct the local housing authority to make an interim management order in respect of the house or part of it on such terms as the court may direct.
This applies despite section 87(9).
- (6) If the court revokes a final management order, the court may direct the local housing authority to serve a temporary exemption notice under section 51 or 73 in respect of the house that comes into force on such date as the court directs. 5
- (7) The revocation of an interim management order by the court does not affect the validity of anything previously done in pursuance of the order. 10

“The operative time” for the purposes of section 98(2)

- 27 (1) This paragraph defines “the operative time” for the purposes of section 98(2).
- (2) If no appeal is made under paragraph 24 before the end of the period of 28 days mentioned in paragraph 25(2), “the operative time” is the end of that period. 15
- (3) If an appeal is made under paragraph 24 before the end of that period, and a decision is given on the appeal which confirms the order, “the operative time” is as follows –
- (a) if the period within which an appeal to the Court of Appeal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period; 20
- (b) if an appeal to the Court of Appeal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order. 25
- (4) For the purposes of sub-paragraph (3) –
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the order, and
- (b) references to a decision which confirms the order are to a decision which confirms it with or without variation. 30

Right to appeal against decision or refusal to vary or revoke interim management order

- 28 A relevant person may appeal to a county court against –
- (a) a decision of a local housing authority to vary or revoke an interim or final management order, or
- (b) a refusal of a local housing authority to vary or revoke an interim or final management order. 35

Time limits for appeals under paragraph 28

- 29 (1) This paragraph applies in relation to an appeal under paragraph 28 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim or final management order. 40
- (2) Any such appeal must be made before the end of the period of 28 days beginning with the date specified in the notice under paragraph 11, 16, 19 or 22 as the date on which the decision concerned was made.

- (3) The court may allow a person to make an appeal after the end of the period of 28 days mentioned in sub-paragraph (2) if it is satisfied –
- (a) where permission is sought before the end of that period, that there is a good reason why that person is unable to make the appeal in time; 5
 - (b) where permission is sought after that time, that there was a good reason for that person’s failure to make the appeal in time and for any delay in applying for permission.

Powers of court on appeal under paragraph 28

- 30 (1) This paragraph applies to an appeal under paragraph 28 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim or final management order. 10
- (2) Paragraph 26(2) applies to such an appeal as it applies to an appeal under paragraph 24.
- (3) The court may confirm, reverse or vary the decision of the local housing authority. 15
- (4) If the appeal is against a decision of the authority to refuse to revoke the order, the court may make an order revoking the order as from a date specified in its order.

“The operative time” for the purposes of section 95(2), 96(2), 103(2) or 104(2) 20

- 31 (1) This paragraph defines “the operative time” for the purposes of –
- (a) section 95(2) or 96(2) (variation or revocation of interim management order, or
 - (b) section 103(2) or 104(2) (variation or revocation of final management order. 25
- (2) If no appeal is made under paragraph 28 before the end of the period of 28 days mentioned in paragraph 29(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 28 within that period, and a decision is given on the appeal which confirms the variation or revocation, “the operative time” is as follows – 30
- (a) if the period within which an appeal to the Court of Appeal 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 Court of Appeal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation. 35
- (4) For the purposes of sub-paragraph (3) – 40
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation or revocation appealed against; and
 - (b) references to a decision which confirms a variation are to a decision which confirms it with or without variation.

Meaning of “relevant person”

- 32 In this Part of this Schedule “relevant person” means –

- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
- (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

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SCHEDULE 7

Section 137.

PENALTY CHARGE NOTICES UNDER SECTION 137

- 1 A penalty charge notice given to a person under section 137 by an officer of an enforcement authority must –
 - (a) state the officer’s belief that that person has committed a breach of duty; 10
 - (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty;
 - (c) require that person, within a period specified in the notice –
 - (i) to pay a penalty charge specified in the notice; or 15
 - (ii) to give notice to the enforcement authority that he wishes the authority to review the notice;
 - (d) state the effect of paragraph 4;
 - (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made; and 20
 - (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).
- 2 The penalty charge specified in the notice shall be of such amount as may be prescribed for the time being by regulations made by the Secretary of State. 25
- 3 (1) The period specified under paragraph 1(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.
(2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph (1)(c) in any particular case if they consider it appropriate to do so. 30
- 4 If the recipient of the penalty charge notice fails to comply with the requirement mentioned in paragraph 1(c) within the specified period (or any extended period), the enforcement authority may recover the amount of the penalty charge from the recipient as a debt. 35
- 5 In proceedings for the recovery of the penalty charge, a certificate which –
 - (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority; and 40
 - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate;is evidence of the facts stated.

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- 6 The enforcement authority may, if they consider that the penalty charge notice ought not to have been given –
- (a) give the recipient a notice withdrawing the penalty charge notice; and
 - (b) repay any amount previously paid as a penalty charge in pursuance of the withdrawn notice. 5
- 7 (1) If the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority shall –
- (a) consider any representations made by the recipient and all other circumstances of the case; 10
 - (b) decide whether to confirm or withdraw the notice; and
 - (c) give notice of their decision to the recipient.
- (2) A notice under sub-paragraph (1)(c) confirming the penalty charge notice must also state the effect of paragraph 8 (1) to (3).
- (3) If the authority are not satisfied – 15
- (a) that the recipient committed the breach of duty specified in the notice;
 - (b) that the notice was given within the time allowed by section 137(2) and complies with the other requirements imposed by or under this Schedule; and 20
 - (c) that in the circumstances of the case it was appropriate for a penalty charge notice to be given to the recipient,
- they shall withdraw the penalty charge notice.
- 8 (1) If a penalty charge notice is confirmed by the enforcement authority, the recipient may, within the period of 28 days beginning with the day after that on which the notice under paragraph 7(1)(c) is given, appeal to the county court against the penalty charge notice. 25
- (2) The county court may extend the period for appealing against the notice.
- (3) Such an appeal must be on one (or more) of the following grounds –
- (a) that the recipient did not commit the breach of duty specified in the penalty charge notice; 30
 - (b) that the notice was not given within the time allowed by section 137(2) or does not comply with any other requirement imposed by or under this Schedule; or
 - (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient. 35
- (4) An appeal against a penalty charge notice shall be by way of a rehearing; and the court shall either uphold the notice or quash it.
- 9 (1) A penalty charge notice and any other notice mentioned in this Schedule may be given by post. 40
- (2) Any such notice may be given –
- (a) in the case of a body corporate, to the secretary or clerk of that body; and
 - (b) in the case of a partnership, to any partner or to a person having control or management of the partnership business. 45

- 10 The Secretary of State may by regulations make provision supplementary or incidental to the preceding provisions of this Part, including in particular provision prescribing –
- (a) the form of penalty charge notices or any other notice mentioned in this Schedule; 5
 - (b) circumstances in which penalty charge notices may not be given;
 - (c) the method or methods by which penalty charges may be paid.

SCHEDULE 8

Section 169(3)

NEW SCHEDULE 2A TO THE HOUSING ACT 1996

“SCHEDULE 2A

Section 51A(7)

10

FURTHER PROVISION ABOUT THE SOCIAL HOUSING OMBUDSMAN FOR WALES

Status

- 1 The Social Housing Ombudsman for Wales (“the Ombudsman”) shall be a corporation sole.

Remuneration, etc.

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- 2 The National Assembly for Wales may pay to or in respect of the Ombudsman such amounts, by way of remuneration, pensions, allowances or gratuities or by way of provision for any such benefits, as it considers appropriate.

- 3 If a person ceases to be the Ombudsman and it appears to the National Assembly for Wales that there are special circumstances which make it right that the person should receive compensation, the National Assembly for Wales may pay to that person a sum of such amount as it considers appropriate.

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Staff and advisers

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- 4 (1) The Ombudsman may appoint such staff as he considers necessary for assisting him in the exercise of his functions.
- (2) The Ombudsman shall include among his staff such persons having a command of the Welsh language as he considers are needed to enable him to investigate complaints in Welsh.
- (3) To assist him in the exercise of his functions, the Ombudsman may obtain advice from any person who, in his opinion, is qualified to give it.
- (4) The Ombudsman may pay to any person from whom he obtains advice under sub-paragraph (3) such fees or allowances as he may determine.

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Delegation of functions

- 5 (1) Any function of the Ombudsman may be exercised by –

- (a) a member of his staff, or
 - (b) a member of the staff of the Commission for Local Administration in Wales,
- if authorised by the Ombudsman for that purpose.
- (2) The Ombudsman may, with the approval of the National Assembly for Wales, make arrangements with persons under which they, or members of their staff, may perform functions of the Ombudsman. 5
- (3) References in any provision made by or under an enactment to a member of staff of the Ombudsman include any person exercising any function of his by virtue of sub-paragraph (1)(b). 10

Reports and determinations

- 6 (1) The Ombudsman—
- (a) shall annually prepare and lay before the National Assembly for Wales a general report on the performance of his functions; and 15
 - (b) may from time to time prepare and lay before the National Assembly for Wales such other reports with respect to his functions as he thinks fit.
- (2) The National Assembly for Wales shall, and the Ombudsman may, publish reports laid before the National Assembly for Wales under sub-paragraph (1). 20
- 7 The Ombudsman may, subject to any provision made by regulations under section 51B, publish his determination on any complaint. 25
- 8 (1) The Ombudsman may include in any report or determination published under paragraph 6 or 7 statements, communications, reports, papers or other documentary evidence obtained in the exercise of his functions.
- (2) In publishing any report or determination, the Ombudsman shall have regard to the need for excluding so far as practicable— 30
- (a) any matter which relates to the private affairs of an individual, where publication would seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to a social landlord in Wales, where publication would seriously and prejudicially affect its interests; 35
- unless inclusion of the matter concerned is necessary for the purposes of the report or determination.

Expenses 40

- 9 (1) The expenses of the Ombudsman shall, so far as they cannot be met out of income received by him, be met by the National Assembly for Wales.
- (2) Those expenses include any sums payable by the Ombudsman in consequence of a breach, in the course of the performance of any of his functions, of any contractual or other duty (whether that 45

breach occurs by reason of his act or omission or that of a member of his staff or any other person assisting him in the exercise of his functions).

Absolute privilege for communications etc.

- | | | |
|----|---|----|
| 10 | For the purposes of the law of defamation absolute privilege attaches to— | 5 |
| | (a) any communication between the Ombudsman and any person by or against whom a complaint is made to him; | |
| | (b) any determination by the Ombudsman; and | |
| | (c) the publication by him of any report or such a determination under paragraph 6, 7 or 8. | 10 |

Disclosure of information

- | | | |
|----|--|----------|
| 11 | (1) Information obtained by the Ombudsman in the course of or for the purposes of an investigation of a complaint must not be disclosed except— | 15 |
| | (a) for the purposes of the investigation, of any determination made in respect of the complaint or of the publication of a determination under paragraph 7; | |
| | (b) as provided in paragraph 12 or 17 or any regulations under section 51B; | 20 |
| | (c) for the purposes of any proceedings for an offence of perjury alleged to have been committed in the course of an investigation of a complaint by the Ombudsman; or | |
| | (d) for the purposes of an inquiry with a view to the taking of any proceedings as mentioned in paragraph (c). | 25 |
| | (2) The Ombudsman shall not be called upon to give evidence in any proceedings (other than proceedings within sub-paragraph (1)(c)) of matters coming to his knowledge in the course of an investigation of a complaint. | |
| | (3) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of sub-paragraph (1) as obtained for the purposes of an investigation and, in relation to such information, the reference in paragraph (a) of that sub-paragraph to the investigation shall have effect as a reference to any investigation. | 30
35 |
| 12 | The Ombudsman may disclose to the Information Commissioner any information obtained by, or furnished to, the Ombudsman by virtue of or for the purposes of section 51A or 51B if the information appears to him to relate to— | 40 |
| | (a) a matter in respect of which the Information Commissioner could exercise any power conferred by— | |
| | (i) Part V of the Data Protection Act 1998 (enforcement), | |
| | (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or | 45 |
| | (iii) Part IV of that Act (enforcement), or | |

- (b) the commission of an offence under –
 - (i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or
 - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure). 5

Accounts and audit

- 13 (1) The Ombudsman shall keep proper accounting records.
- (2) The Ombudsman shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury. 10
- (3) The directions which the Treasury may give under sub-paragraph (2) include, in particular, directions as to –
 - (a) the information to be contained in the accounts and the manner in which it is to be presented, 15
 - (b) the methods and principles in accordance with which the accounts are to be prepared, and
 - (c) the additional information (if any) that is to accompany the accounts.
- (4) In this paragraph and in paragraph 14, “financial year” means the twelve months ending with 31st March. 20
- 14 (1) The accounts prepared by the Ombudsman for any financial year shall be submitted by him to the Auditor General for Wales no later than the 30th November of the following year.
- (2) The Auditor General for Wales shall –
 - (a) examine and certify any accounts submitted to him under this paragraph, and 25
 - (b) no later than four months after the accounts are submitted to him, lay before the National Assembly for Wales a copy of them as certified by him together with his report on them. 30
- (3) In examining any accounts submitted to him under this paragraph, the Auditor General for Wales shall, in particular, satisfy himself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it. 35

Accounting officer

- 15 (1) The accounting officer for the Office of the Ombudsman shall be the Ombudsman.
- (2) But where –
 - (a) the Ombudsman is incapable of discharging his responsibilities as accounting officer, or
 - (b) the office of the Ombudsman is vacant (and there is no acting Ombudsman), 40

- the Treasury may designate a member of the Ombudsman’s staff to be the accounting officer for so long as paragraph (a) or (b) applies.
- (3) The accounting officer for the Office of the Ombudsman shall have, in relation to— 5
- (a) the accounts of the Ombudsman, and
 - (b) the finances of the Office of the Ombudsman,
- the responsibilities which are from time to time specified by the Treasury.
- (4) In this paragraph references to responsibilities include in particular— 10
- (a) responsibilities in relation to the signing of accounts,
 - (b) responsibilities for the propriety and regularity of the finances of the Office of the Ombudsman, and
 - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Office of the Ombudsman are used. 15
- (5) The responsibilities which may be specified under this paragraph include responsibilities owed to—
- (a) the National Assembly for Wales, the executive committee or the Audit Committee, or 20
 - (b) the House of Commons or its Committee of Public Accounts.
- (6) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may— 25
- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Office of the Ombudsman, and
 - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken. 30
- (7) In this paragraph and paragraphs 16 and 17, “the Office of the Ombudsman” means the Ombudsman and the members of his staff.
- (8) Section 13 of the National Audit Act 1983 (interpretation of references to the Committee of Public Accounts) applies for the purposes of this paragraph as for those of that Act. 35

Examinations into use of resources

- 16 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Ombudsman has used the resources of the Office of the Ombudsman in discharging his functions. 40
- (2) Sub-paragraph (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Ombudsman.
- (3) In determining how to exercise his functions under this paragraph, the Auditor General for Wales shall take into account 45

- the views of the Audit Committee as to the examinations which he should carry out under this paragraph.
- (4) The Auditor General for Wales may lay before the National Assembly for Wales a report of the results of any examination carried out by him under this paragraph. 5
- (5) Section 7 of the National Audit Act 1983 (economy, efficiency and effectiveness examinations by Comptroller and Auditor General) applies to the Ombudsman.
- (6) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Ombudsman under this paragraph or section 7 of the National Audit Act 1983. 10
- 17 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Ombudsman, the Comptroller and Auditor General— 15
- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Ombudsman, or of the Auditor General for Wales, as he may reasonably require for that purpose, and 20
- (b) shall be entitled to required from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General shall— 25
- (a) consult the Auditor General for Wales, and
- (b) take into account any relevant work done or being done by the Auditor General for Wales,
- before he acts in reliance on sub-paragraph (1) or carries out an examination in respect of the Ombudsman under section 7 of the National Audit Act 1983 (economy etc. examinations).” 30

SCHEDULE 9

Section 191

BUILDINGS WHICH ARE NOT HMOs (EXCEPT IN PART 1)

Introduction: buildings (or parts) which are not HMOs (except in Part 1)

- 1 (1) The following paragraphs list buildings which are not houses in multiple occupation for any purposes of this Act other than those of Part 1. 35
- (2) In this Schedule “building” includes a part of a building.

Buildings owned by local housing authorities

- 2 Any building in which a local housing authority has an estate or interest.

Buildings controlled or managed by public sector bodies etc.

- 3 (1) A building where the person managing or having control of it is— 40

- (a) a body which is registered as a social landlord under Part 1 of the Housing Act 1996 (c. 52),
 - (b) a police authority established under section 3 of the Police Act 1996 (c. 16),
 - (c) the Metropolitan Police Authority established under section 5B of that Act, 5
 - (d) a fire authority, or
 - (e) a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990 (c. 19).
- (2) In sub-paragraph (1)(d) “fire authority” means – 10
- (a) a fire authority constituted by a combination scheme under the Fire Services Act 1947 (c. 41),
 - (b) a metropolitan county fire and defence authority,
 - (c) the London Fire and Emergency Planning Authority, or
 - (d) a county council acting as the fire authority for its area under section 4 of the Fire Services Act 1947. 15

Buildings regulated otherwise than under this Act

- 4 Any building whose occupation is regulated otherwise than by or under this Act and which is of a description specified for the purposes of this paragraph in regulations made by the appropriate national authority. 20

Buildings occupied by students

- 5 (1) Any building –
- (a) which is occupied only by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a specified description, and 25
 - (b) where the person managing or having control of it is the educational establishment in question or a specified person or a person of a specified description.
- (2) In sub-paragraph (1) “specified” means specified for the purposes of this paragraph in regulations made by the appropriate national authority. 30

Buildings occupied by religious communities

- 6 (1) Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering. 35
- (2) This paragraph does not apply in the case of a converted block of flats to which section 193 applies.

Buildings occupied under long leases

- 7 (1) Any building which is occupied by –
- (a) one or more persons who have a leasehold estate in it granted for a term of more than 21 years; 40
 - (b) any member of the household of such a person or persons; and

- (c) no more than such other number of persons as is specified for the purposes of this paragraph in regulations made by the appropriate national authority.
- (2) This paragraph does not apply in the case of a converted block of flats to which section 193 applies.

5

Buildings occupied by two persons

- 8 Any building which is occupied only by two persons who form two households.

SCHEDULE 10

Section 199(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

10

Parliamentary Commissioner Act 1967 (c. 13)

- 1 (1) Section 11A of the Parliamentary Commissioner Act 1967 (consultation between Parliamentary Commissioner and Welsh Administration Ombudsman or Health Service Commissioners) is amended as follows.
- (2) In the sidenote for “Welsh Administration Ombudsman or Health Service Commissioners” substitute “other Commissioners or Ombudsmen”
- (3) In subsection (1) –
- (a) after “Ombudsman” insert “, of the Social Housing Ombudsman for Wales”; and
- (b) in paragraph (b) for “or” substitute “, under regulations under section 51B of the Housing Act 1996 or under”.
- (4) In subsection (2) after “Ombudsman” insert “, the Social Housing Ombudsman for Wales”.

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Land Compensation Act 1973 (c. 26)

- 2 In section 29(7) of the Land Compensation Act 1973 (right to home loss payment where person displaced from dwelling) after paragraph (c) insert –
- “(d) a prohibition order under section 18 or 19 of the Housing Act 2004.”

25

Local Government Act 1974 (c. 7)

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- 3 (1) Section 33 of the Local Government Act 1974 (consultation between the Local Commissioner, other commissioners and the Welsh Administration Ombudsman) is amended as follows.
- (2) In the sidenote for “the Parliamentary Commissioner and the Health Service Commissioners” substitute “and other Commissioners and Ombudsmen”.
- (3) In subsection (1) –

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- (a) after paragraph (a) insert –
 - “(aza) by the Social Housing Ombudsman for Wales, in accordance with regulations under section 51B of the Housing Act 1996,”;
 - (b) omit “the” after “appropriate Commissioner or”; and 5
 - (c) after “the Act of 1967” insert “, under the Housing Act 1996”.
- (4) In subsection (2) –
- (a) after “Parliamentary Commissioner” insert “, the Social Housing Ombudsman for Wales”; and
 - (b) omit “the” after “that Commissioner or”. 10
- (5) In subsection (5) after “1967” insert “, in paragraph 13(1) of Schedule 2A to the Housing Act 1996”.

Greater London Council (General Powers) Act 1981 (c. xvii)

- 4 In section 9(1) of the Greater London Council (General Powers) Act 1981 –
- (a) for from “a registration scheme” to “section 354 of that Act,” 15
 - (b) for “358” substitute “113”.

Housing Act 1985 (c. 68)

- 5 The Housing Act 1985 has effect subject to the following amendments.
- 6 In section 8(2) (periodical review of housing needs) for “section 605” 20
- 7 For section 252(c) (definition of “house in multiple occupation” for purposes of Part 8) substitute –
- “(c) “house in multiple occupation” means a house in multiple occupation as defined by sections 191 to 195 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 9 to that Act), but does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household.” 25
- 8 For section 268 (service of notice of demolition and closing orders) substitute – 30

“268 Service of notice of demolition order

- (1) The local housing authority shall serve a demolition order made by them by serving a copy of the order on – 35
- (a) every owner or occupier of the premises to which the order relates;
 - (b) every person who, to their knowledge, is entitled or authorised to permit persons to occupy the premises; and
 - (c) every person who, to their knowledge, is a mortgagee of the premises. 40

- (2) For the purposes of subsection (1)(a) a copy of a demolition order shall be taken to have been served on every occupier of the premises if it is fixed to a conspicuous part of the premises.
- (3) Any reference in subsections (1) and (2) to “the premises”, in the case of an order which relates to a building containing one or more flats, includes a reference to the flat or flats concerned. 5
- (4) An order against which no appeal is brought becomes operative at the end of the period of 21 days from the date of service of the order and is final and conclusive as to matters which could have been raised on an appeal.” 10
- 9 After section 269 (right of appeal against demolition order) insert –
- “269A Appeals suggesting certain other courses of action**
- (1) One ground of appeal under section 269 in relation to a demolition order made under section 265 is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned. 15
- (2) The courses of action are –
- (a) serving an improvement notice under section 9 or 10 of the Housing Act 2004;
- (b) making a prohibition order under section 18 or 19 of that Act; 20
- (c) serving a hazard awareness notice under section 26 or 27 of that Act; or
- (d) declaring the area in which the premises concerned are situated to be a clearance area in accordance with section 289 of this Act. 25
- (3) Subsection (4) applies where –
- (a) the court is hearing an appeal under section 269 in relation to a demolition order made under section 265; and
- (b) the grounds on which the appeal is brought are or include the ground that a course of action mentioned in subsection (2) is the best course of action in relation to each hazard concerned. 30
- (4) The court shall have regard to any guidance given to the local housing authority under section 8 of the Housing Act 2004.
- (5) Subsection (6) applies where –
- (a) an appeal under section 269 is allowed against a demolition order made under section 265; and 35
- (b) the reason or one of the reasons for allowing the appeal is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (6) The judge shall, if requested to do so by the appellant or the local housing authority, include in his judgment a finding to that effect and identifying the course of action concerned. 40
- (7) Subsection (1) of this section is without prejudice to the generality of section 269.”
- 10 In section 274 (demolition orders: power to permit reconstruction of 45

condemned house) for subsections (2) to (5) substitute –

- “(2) If the authority are satisfied that the result of the works will be –
- (a) in the case of a demolition order made under section 265(1) or (2), that the hazard concerned ceases to be a category 1 hazard, or 5
 - (b) in the case of a demolition order made under section 265(3) or (4), that a prescribed state of affairs exists, they may, in order that the person submitting the proposals may have an opportunity of carrying out the works, extend for such period as they may specify the time within which the owner of the premises is required under section 271 to demolish them. 10
- (3) In subsection (2) “prescribed state of affairs” means such state of affairs as may be specified or described in an order made by the Secretary of State.
- (4) An order under subsection (3) – 15
- (a) may make different provision for different cases or descriptions of case (including different provision for different areas);
 - (b) may contain such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate; and 20
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) That time may be further extended by the authority, once or more often as the case may require, if – 25
- (a) the works have begun and appear to the authority to be making satisfactory progress, or
 - (b) though they have not begun, the authority think there has been no unreasonable delay. 30
- (6) Where the authority determine to extend, or further extend, the time within which the owner of any premises is required under section 271 to demolish them, notice of the determination shall be served by the authority on every person having an interest in the premises or part of the premises, whether as freeholder, mortgagee or otherwise. 35
- (7) If the works are completed to the satisfaction of the authority they shall revoke the demolition order (but without prejudice to any subsequent proceedings under this Part or Part 1 of the Housing Act 2004).”

11 After section 274 insert – 40

“274A Effect of certain enforcement action under the Housing Act 2004

A demolition order which has been made in respect of any premises shall cease to have effect if an interim or final management order under Part 4 of the Housing Act 2004 comes into force in relation to the premises.” 45

12 For section 275 (demolition orders: substitution of closing orders)

substitute –

“275 Demolition orders: substitution of prohibition order to permit use otherwise than for human habitation

- (1) If –
- (a) an owner of any premises in respect of which a demolition order has become operative, or 5
 - (b) any other person who has an interest in the premises, submits proposals to the local housing authority for the use of the premises for a purpose other than human habitation, the authority may, if they think fit, determine the demolition order and make a prohibition order under section 18 or 19 of the Housing Act 2004 in respect of the hazard concerned. 10
- (2) The authority shall serve notice that the demolition order has been determined, and a copy of the prohibition order, on every person on whom they are required by Part 1 of Schedule 2 to the Housing Act 2004 to serve a copy of the prohibition order.” 15

- 13 (1) Section 289 (declaration of clearance area) is amended as follows.
- (2) In subsection (2F)(b) for “are unfit for human habitation” substitute “contain category 1 or category 2 hazards”.
- (3) In subsection (3) – 20
- (a) in sub-paragraph (i), for the words from “unfit” to “health” substitute “dangerous or harmful to health or safety”; and
 - (b) in sub-paragraph (ii), for “injurious to health” substitute “harmful to health or safety”.
- 14 For section 300 (purchase of houses liable to be demolished or closed) substitute – 25

“300 Purchase of houses liable to be demolished or to be subject to a prohibition order

- (1) Where –
- (a) the local housing authority would be required under section 265(1) or (2) to make a demolition order in respect of a dwelling, a house in multiple occupation or a building containing one or more flats, and 30
 - (b) it appears to them that the dwelling, house in multiple occupation or, as the case may be, building is or can be rendered capable of providing accommodation of a standard which is adequate for the time being, 35
- they may purchase it instead.
- (2) Where –
- (a) the local housing authority would be required under section 5 of the Housing Act 2004 to make a relevant prohibition order in respect of a dwelling, a house in multiple occupation or a building containing one or more flats, and 40
 - (b) it appears to them that the dwelling, house in multiple occupation or, as the case may be, building is or can be rendered capable of providing accommodation of a standard which is adequate for the time being, 45

- they may purchase it instead.
- (3) In subsection (2) “relevant prohibition order” means a prohibition order under section 18 of the Housing Act 2004 which prohibits the use of the dwelling, house in multiple occupation or building for all purposes unless a purpose is approved by the authority. 5
- (4) Where an authority have determined to purchase any premises under subsection (1) –
- (a) they shall serve a notice of their determination on the persons on whom they would have been required by section 268(1) to serve a copy of a demolition order, and 10
- (b) sections 268(4) and 269(1), (2), (3) and (6) (operative date and right of appeal) apply to such a notice as they apply to a demolition order.
- (5) Where an authority have determined to purchase any premises under subsection (2) – 15
- (a) they shall serve a notice of their determination on the persons on whom they would have been required by Part 1 of Schedule 2 to the Housing Act 2004 (service of prohibition orders) to serve a copy of the relevant prohibition order; and
- (b) section 22 of that Act and Parts 1 and 3 of that Schedule 20 (operative date, right of appeal etc.) apply to such a notice as they apply to a prohibition order which is not suspended or to appeals against such an order (as the case may be).
- (6) At any time after the notice has become operative the authority may purchase the dwelling, house in multiple occupation or building by agreement or be authorised by the Secretary of State to purchase it compulsorily. 25
- (7) This section does not apply where section 304(1) applies (listed building or building protected pending listing).”
- 15 For section 304 (closing orders in relation to listed buildings) substitute – 30
- “304 Demolition order not to be made in respect of listed building**
- (1) A local housing authority shall not make a demolition order under section 265 (power to make a demolition order) in respect of a listed building.
- (2) Where a dwelling, house in multiple occupation or building in respect of which a demolition order has been made becomes a listed building, the local housing authority shall determine the order (whether or not it has become operative). 35
- (3) The local housing authority shall serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a new demolition order in relation to the premises. 40
- (4) The Secretary of State may give notice in respect of a dwelling, house in multiple occupation or building to the local housing authority stating that its architectural or historic interest is sufficient to render it inexpedient that it should be demolished pending determination 45

- of the question whether it should be a listed building; and the provisions of this section apply to a dwelling, house in multiple occupation or building in respect of which such a notice is in force as they apply to a listed building.”
- 16 In section 308(3) (approval of owner’s proposals for re-development) – 5
 (a) after “Part” insert “or Chapter 2 of Part 1 of the Housing Act 2004”;
 and
 (b) for “, closing or purchase of unfit premises” substitute “or purchase of premises or the prohibition of uses of premises”.
- 17 Omit section 310 (certificate of fitness for human habitation resulting from owner’s improvements or alterations). 10
- 18 In section 318(1)(a) (power of court to authorise execution of works on unfit premises or for improvement) –
 (a) for “dwelling-houses” substitute “dwellings”; and
 (b) for “injurious to health or unfit for human habitation” substitute 15
 “harmful to health or safety”.
- 19 For section 322 substitute –
- “322 Minor definitions**
- (1) In this Part the following expressions have the same meaning as in Part 1 of the Housing Act 2004 (see section 1(5) to (7) of that Act) – 20
 “building containing one or more flats”,
 “category 1 hazard”,
 “category 2 hazard”,
 “common parts”, in relation to a building containing one or
 more flats, 25
 “dwelling”,
 “flat”,
 “hazard”.
- (2) In this Part –
 “health” includes mental health; 30
 “house in multiple occupation” means a house in multiple
 occupation as defined by sections 191 to 195 of the Housing
 Act 2004, as they have effect for the purposes of Part 1 of that
 Act (that is, without the exclusions contained in Schedule 9 to
 that Act); 35
 “owner”, in relation to premises –
 (a) means a person (other than a mortgagee not in
 possession) who is for the time being entitled to
 dispose of the fee simple in premises, whether in
 possession or reversion, and 40
 (b) includes also a person holding or entitled to the rents
 and profits of the premises under a lease of which the
 unexpired term exceeds three years;
 “premises” in relation to a demolition order, means the
 dwelling, house in multiple occupation or building in respect
 of which the order is made. 45

	(3) This Part applies to unoccupied HMO accommodation (as defined by section 1(5) of the Housing Act 2004) as it applies to a house in multiple occupation, and references to a house in multiple occupation in this Part are to be read accordingly.”																													
20	In section 323 (index of defined expressions: Part 9) insert at the appropriate places –	5																												
	<table border="0" style="margin-left: 40px;"> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“building containing one or more flats</td> <td style="padding-right: 10px;">1</td> <td>section 322”</td> <td style="padding-left: 20px;">10</td> </tr> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“category hazard</td> <td style="padding-right: 10px;">1</td> <td>section 322”</td> <td></td> </tr> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“category hazard</td> <td style="padding-right: 10px;">2</td> <td>section 322”</td> <td></td> </tr> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“common parts</td> <td></td> <td>section 322”</td> <td style="padding-left: 20px;">15</td> </tr> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“dwelling</td> <td></td> <td>section 322”</td> <td></td> </tr> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“hazard</td> <td></td> <td>section 322”</td> <td></td> </tr> <tr> <td style="border-right: 1px solid black; padding-right: 10px;">“health</td> <td></td> <td>section 322”.</td> <td></td> </tr> </table>	“building containing one or more flats	1	section 322”	10	“category hazard	1	section 322”		“category hazard	2	section 322”		“common parts		section 322”	15	“dwelling		section 322”		“hazard		section 322”		“health		section 322”.		
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21	In section 439 (requirements as to fitness of premises before advancing money for certain purposes), omit subsections (1) and (2).	20																												
22	In section 582 (compulsory purchase orders: restriction on recovery of possession of houses in multiple occupation) for subsection (8) substitute –																													
	<p>“(8) In this section “house in multiple occupation” has the meaning given by sections 191 to 195 of the Housing Act 2004 for the purposes of that Act (other than Part 1).”</p>	25																												
23	For section 584A (compensation payable in case of closing and demolition																													

orders) substitute –

“584A Compensation payable in case of prohibition and demolition orders

- (1) Subject to subsection (3), where a relevant prohibition order becomes operative in respect of any premises or a demolition order under section 265 is made in respect of any premises, the local housing authority shall pay to every owner of the premises an amount determined in accordance with subsection (2). 5
- (2) The amount referred to in subsection (1) is the diminution in the compulsory purchase value of the owner’s interest in the premises as a result of the coming into operation of the relevant prohibition order or, as the case may be, the making of the demolition order; and that amount – 10
- (a) shall be determined as at the date of the coming into operation or making of the order in question; and
- (b) shall be determined (in default of agreement) as if it were compensation payable in respect of the compulsory purchase of the interest in question and shall be dealt with accordingly. 15
- (3) In any case where –
- (a) a relevant prohibition order has been made in respect of any premises, and 20
- (b) that order is revoked and a demolition order is made in its place,
- the amount payable to the owner under subsection (1) in connection with the demolition order shall be reduced by the amount (if any) paid to the owner or a previous owner under that subsection in connection with the relevant prohibition order. 25
- (4) For the purposes of this section –
- “compulsory purchase value”, in relation to an owner’s interest in premises, means the compensation which would be payable in respect of the compulsory purchase of that interest if it fell to be assessed in accordance with the Land Compensation Act 1961; 30
- “premises”, in relation to a demolition order, has the meaning given by section 322;
- “premises”, in relation to a prohibition order, means premises which are specified premises in relation to the order within the meaning of Part 1 of the Housing Act 2004; 35
- “relevant prohibition order” means a prohibition order under section 18 or 19 of the Housing Act 2004 which prohibits for all purposes the use of any premises (as opposed to any part of the premises).” 40

24 For section 584B (repayment on revocation of demolition or closing order) substitute –

“584B Repayment on revocation of demolition or prohibition order

- (1) Where a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a demolition order or relevant prohibition order and – 45

- (a) the demolition order is revoked under section 274 (revocation of demolition order to permit reconstruction of premises), or
- (b) the relevant prohibition order is revoked under section 23(1) or (2) of the Housing Act 2004, 5
- then, if at that time the person to whom the payment was made has the same interest in the premises as he had at the time the payment was made, he shall on demand repay to the authority the amount of the payment.
- (2) In any case where – 10
- (a) a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a relevant prohibition order, and
- (b) by virtue of section 23(3) of the Housing Act 2004, the order is revoked as respects part of the premises and not varied, 15
- (c) the person to whom the payment was made (in this section referred to as “the recipient”) had at the time the payment was made, an owner’s interest in the part of the premises concerned (whether or not he had such an interest in the rest 20 of the premises),
- then, if at the time of the revocation of the relevant prohibition order the recipient has the same interest in the premises as he had at the time the payment was made, he shall on demand pay to the authority an amount determined in accordance with subsections (4), (5) and 25 (6).
- (3) In any case where –
- (a) a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a relevant prohibition order, and 30
- (b) by virtue of section 23(4) of the Housing Act 2004, the order is varied,
- then, if at the time of the variation of the order the recipient has the same interest in the premises as he had at the time the payment was made, he shall on demand pay to the authority an amount 35 determined in accordance with subsections (4), (5) and (6).
- (4) The amount referred to in subsection (2) or (3) is whichever is the less of –
- (a) the amount by which the value of the interest of the recipient in the premises increases as a result of the revocation or variation of the relevant prohibition order; and 40
- (b) the amount paid to the recipient under section 584A(1) in respect of his interest in the premises;
- and the amount referred to in paragraph (a) shall be determined as at the date of the revocation or variation of the relevant prohibition order. 45
- (5) For the purpose of assessing the amount referred to in subsection (4)(a), the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary

modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

- (6) Any dispute as to the amount referred to in subsection (4)(a) shall be referred to and determined by the Lands Tribunal; and section 2 and subsections (1)(a) and (4) to (6) of section 4 of the Land Compensation Act 1961 shall, subject to any necessary modifications, apply for the purposes of this section as they apply for the purposes of that Act. 5
- (7) In this section “premises” and “relevant prohibition order” have the same meaning as in section 584A.” 10

Local Government and Housing Act 1989 (c. 42)

- 25 In section 100 of the Local Government and Housing Act 1989 (interpretation of Part 7) for the definition of “house in multiple occupation” substitute – 15
- ““house in multiple occupation” means a house in multiple occupation as defined by sections 191 to 195 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 9 to that Act), but does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household;” 20
- 26 In section 195(2) of that Act (short title, commencement and extent) for “167” substitute “168”.

Water Industry Act 1991 (c. 56)

- 27 For paragraph 2(2) of Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges) substitute – 25
- “(2) In this paragraph “house in multiple occupation” means a house in multiple occupation as defined by sections 191 to 195 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 9 to that Act).” 30

Health Service Commissioners Act 1993 (c. 46)

- 28 (1) Section 18 of the Health Service Commissioners Act 1993 (consultation during investigations) is amended as follows.
- (2) In subsection (1) – 35
- (a) omit “or” at the end of paragraph (c);
- (b) at the end of paragraph (d) insert “or
- (e) by the Social Housing Ombudsman for Wales under regulations under section 51B of the Housing Act 1996;” 40
- (c) omit “the” after “appropriate Commissioner or”; and
- (d) omit “the” after “that Commissioner or”.
- (3) In subsection (2) omit “the Welsh Administration”.

Home Energy Conservation Act 1995 (c. 10)

- 29 For paragraph (aa)(i) of the definition of “residential accommodation” in section 1(1) of the Home Energy Conservation Act 1995 (interpretation) substitute –
- (i) in England and Wales, a house in multiple occupation as defined by sections 191 to 195 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 9 to that Act).”

Housing Act 1996 (c. 52) 10

- 30 In section 210(1) of the Housing Act 1996 (homelessness: suitability of accommodation) –
- (a) for “Parts IX, X and XI” substitute “Parts 9 and 10”; and
- (b) for “; overcrowding; houses in multiple occupation)” substitute “and overcrowding) and Parts 1 to 4 of the Housing Act 2004”. 15

Housing Grants, Construction and Regeneration Act 1996 (c. 53)

- 31 In section 24 of the Housing Grants, Construction and Regeneration Act 1996 (considerations of fitness before approving applications for certain grants), omit subsection (4).

Government of Wales Act 1998 (c. 38) 20

- 32 (1) Paragraph 27 of Schedule 9 to the Government of Wales Act 1998 (consultation by Welsh Administration Ombudsman with other Ombudsmen) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) omit “or” at the end of paragraph (b); 25
- (b) at the end of paragraph (c) insert “or
- (d) by the Social Housing Ombudsman for Wales under regulations under section 51B of the Housing Act 1996,”;
- (c) after “appropriate Commissioner” insert “or Ombudsman”; and 30
- (d) after “that Commissioner” insert “or Ombudsman”.
- (3) In sub-paragraph (2) after “Commissioner” insert “or Ombudsman”.

Freedom of Information Act 2000 (c. 36)

- 33 In the table in section 76(1) of the Freedom of Information Act 2000, after the entry relating to the Welsh Administration Ombudsman, insert – 35

“The Social Housing Ombudsman for Wales	Part 1, Chapter 5 of the Housing Act 1996 (c. 52).”
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SCHEDULE 11

Section 200

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Land Compensation Act 1973 (c. 26)	In section 29(7)(a), the words “or closing”.	5
Local Government Act 1974 (c.7)	In section 33, in subsection (1) the “the” after “appropriate Commissioner or”, and in subsection (2) the “the” after “that Commissioner or”.	
Housing Act 1985 (c. 68)	In section 104(1)(b), the words “and Part V (the right to buy)”.	10
	In section 157, in subsection (2) the words “, subject to subsection (4),”, and subsections (4) and (5).	
	Sections 189 to 208. Section 264.	15
	In section 267, in the sidenote the words “and closing orders”, and subsections (2) and (3).	
	In section 269, in subsection (1) the words “or closing” and subsections (2A) and (3A).	20
	Sections 276 to 279. Section 289(5A).	
	In section 305, subsection (5) and, in subsection (8), the words from “and” to the end of the subsection.	25
	In section 307(1), the word “, closing”.	
	Section 310.	
	In section 311, in subsection (1) the words “or section 310 (owner’s improvements or alterations)” and in subsection (3) the words “or 310, as the case may be”.	30
	In section 317, in the sidenote the words “or closed”, and in subsection (1) the words “or closing”.	
	In section 319(1)(b), the words “or closing”.	35
	In section 323, the entries relating to “closing order”, “fit (or unfit) for human habitation”, “house” and “unfit (or fit) for human habitation”.	
	Sections 345 to 400. Section 439(1) and (2).	40
	Sections 604 to 606.	
	In section 623(1), omit “and “flat”, except in the expression “flat in multiple occupation”, and the definitions of “house in multiple occupation” and “flat in multiple occupation”.	45
	In section 624, omit the entries relating to “flat”, “flat in multiple occupation” and “house in multiple occupation”.	50
	Schedule 10. Schedule 13.	

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Housing Act 1988 (c. 50)	Section 130. Schedule 15.	
Local Government and Housing Act 1989 (c. 42)	In section 165(1), paragraphs (a) and (c). Section 167. In Schedule 9, paragraphs 1 to 14, 16, 17(2) and (4), 20(2) and (3), 21 to 23, 25(1), 29, 32, 33(1), 36, 42, 43(b), 44 to 71, 75, 83, 84 and 86.	5
Health Service Commissioners Act 1993 (c. 46)	In section 18, in subsection (1), the “or” at the end of paragraph (c), the “the” after “appropriate Commissioner or” and the “the” after “that Commissioner or”, and in subsection (2) the words “the Welsh Administration”.	10
Housing Act 1996 (c. 52)	Sections 65 to 79.	15
Housing Grants, Construction and Regeneration Act 1996 (c. 53) Government of Wales Act 1998 (c.38)	Section 24(4). In section 58, the definition of “qualifying park home”. In section 59, the entries relating to “fit for human habitation” and “qualifying park home”. Sections 81 to 91. Section 97. In Schedule 1, paragraph 10. In Schedule 9, in paragraph 27(1) the “or” at the end of paragraph (b).	20 25

Housing Bill

A

B I L L

To make provision about housing conditions; to regulate houses in multiple occupation and certain other residential accommodation; to make provision for home information packs in connection with the sale of residential properties; to make provision about secure tenants and the right to buy; to make other provision about housing; and for connected purposes.

*Presented by Mr Secretary Prescott
supported by
Mr Chancellor of the Exchequer, Mr Secretary Blunkett,
Secretary Margaret Beckett, Mr Secretary Darling,
Mr Secretary Reid, Ms Secretary Hewitt,
Mr Secretary Clarke, Mr Paul Boateng
and Mr Peter Hain.*

*Ordered, by the House of Commons,
to be Printed, 8th December 2003.*

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