



HOUSING ACT 2004

AN OVERVIEW OF NEW JURISDICTIONS

Introduction

The Housing Act has given the Residential Property Tribunal Service further jurisdictions to deal with housing law issues. The Act covers a variety of housing issues including unfitness, houses in multiple occupation, selective licensing and Home Information Packs. Most of the measures came into force on 6 April 2006, although implementation of some measures was put back until 6 July.

The jurisdictions

The new jurisdictions will be exercised by "Residential Property Tribunals" (RPTs).

Unfitness for Human Habitation

The scheme for assessing unfitness and for the action to be taken by a local authority in response has been wholly revised. Part 1 of the Act makes detailed provision in this respect. The evaluation of the potential risks to health and safety by reason of faults identified in dwelling units is now assessed on the basis of the Housing Health and Safety Rating System (HHSRS).

The role of the RPT is, broadly speaking, as the adjudicators of appeals against the decisions and actions of local authorities in respect of unfitness. A general example may help to understand the role.

Example In respect of a category 2 hazard, the local authority may serve an improvement notice specifying the deficiencies giving rise to a hazard and requiring remedial action to be taken. Under Part 3 of Schedule 1 to the Act, the person on whom the improvement notice is served, may appeal to the RPT. Paragraph 10 of the schedule make it clear that the grounds of appeal are not limited. However, paragraphs 11 and 12 set out specific grounds namely:

- (a) that another person, as owner of the specified premises ought to take the action concerned, or ought to pay the cost or part of the cost of that action;
- (b) that instead of service of an improvement notice, the authority ought to have specified a different course of action, namely making a prohibition order, a hazard awareness notice or a demolition order.

On appeal the RPT may either confirm, quash or vary the improvement notice.

Houses In Multiple Occupation

Part 2 of the Act deals with Houses in Multiple Occupation. HMOs of a prescribed description are required to be licensed. The main details of the scheme are set out in regulations. There are rights of appeal against the refusal or grant of a licence and additionally rights of appeal against the decision or refusal to vary or revoke a licence. Appeals may be made by the applicant for a licence, the licence holder or "any relevant person".

On appeal the tribunal may confirm, reverse or vary the decision of the local housing authority and may direct the authority to grant a licence to an applicant on such terms as the tribunal may direct.

Selective Licensing

Part 3 of the Act deals with the licensing of residential accommodation in selected areas. Local housing authorities may designate the whole or part of their area if they are or likely to become areas of low housing demand, there is persistent anti-social behaviour and landlords have failed to take action to improve the problem and the designation will contribute positively to the social and economic conditions in the area. Landlords in such areas must be licensed and must satisfy the local housing authority that they are fit to let their property in line with designated criteria.

Appeals against the refusal of licences or the conditions to be imposed are dealt with by the RPT under Part 3 of Schedule 5 to the Act as above.

Management Orders

In addition to licensing powers/duties the local authority may take action in respect of HMOs by imposing management orders. These may be interim or final management orders. There are circumstances where an authority must make an order and circumstances where they may make an order. For the discretionary power to be exercised approval needs to be obtained from the RPT.

Empty Dwelling Management Orders

Finally, where specific conditions are fulfilled in respect of empty residential property (for example that the property has been empty for a specific amount of time) the local authority is empowered to make a management order which would allow them to use the property for residential purposes. Before taking such a step they need to obtain an order from the RPT.

Right to Buy

Schedule 5 to the Housing Act 1985 makes provision for exceptions to the Right to Buy. The exception contained in paragraph 11 of that schedule is in respect of individual dwelling-houses which are particularly suitable, having regard to location, size, design, heating system and other features for occupation by elderly persons and which have been let to the tenant or a predecessor in title for occupation by a person who was aged 60 or more.

Appeals against a local authority decision to reject an application to exercise the Right to Buy have been dealt with by the RPT since July 2005.