



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **LON/00BB/HSR/2015/0015**

**Property** : **49 Kelland Road, London, E13 8DS**

**Applicant** : **London Borough of Newham**

**Respondent** : **Nasser Nsubuga**

**Type of application** : **Application from Local Housing  
Authority for Rent Repayment  
Order (Housing Benefit)**

**Tribunal member(s)** : **Ruth Wayte  
Hugh Geddes RIBA**

**Date of decision** : **4 April 2016**

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**DECISION**

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## **Decision of the tribunal**

- (1) The application is dismissed for the reasons set out below.

### **The application**

1. The applicant seeks a rent repayment order (RRO) under section 96(5) of the Housing Act 2004 (“the Act”). The amount of housing benefit that the Council sought to recover from Mr Nsubuga was £7,476.96. This was stated to have been paid over a period (05/09/2013 to 06/08/14) commencing 12 months less one day before the date of the Notice of Intended Proceedings dated 4 September 2014.
2. Directions were issued on 9 December 2015 for a hearing on 26 February 2016. At the hearing the Applicant was represented by Ms Just of counsel. Council employees Ms M. Srokowska and Mr Patrick Gallagher appeared as witnesses. The Respondent represented himself. Both parties sought to introduce new documents at the hearing, namely a skeleton argument for the Applicant and an email for the Respondent. It also became apparent that the Respondent had omitted to send a copy of his statement and bank account evidence to the Applicant in advance of the hearing. The tribunal determined that the additional documents would be accepted and the start of the hearing was delayed to allow the parties time to consider them.

### **Background**

3. Part 3 of the Act gives local housing authorities power to designate an area as subject to selective licensing, meaning that all tenanted properties must be licensed, subject to certain exceptions - none of which are relevant here. In the event that a tenanted property is unlicensed, the authority may prosecute the person having control or management of the property in the Magistrates’ Court and may also seek recovery of housing benefit by an RRO from this tribunal.
4. There is no dispute that this property falls within the London Borough of Newham which has designated most of the borough as subject to selective licensing. The applicant relied on the statement of Magdalena Srokowska, which set out the background to the council’s decision and provided evidence of the steps taken to notify landlords in the area of the need to apply for a licence by 1 January 2013.
5. There is also no dispute that the property was occupied by a tenant at the relevant time and therefore required a licence and no dispute that the Respondent was “the appropriate person” as defined in the Act.

6. That said, the background to the letting is relevant, particularly given the operation of discretion as set out in paragraph 11 below. 49 Kelland Road is a one bedroom ex-Newham property which was bought by the Respondent in 2006. He gave evidence that he originally occupied the property as his home and had no intention of becoming a landlord, although his work as an electrician meant he was often away from the flat for weeks at a time. In 2010 he was introduced to a woman through his church. She was homeless and it was suggested that she rent his property to their mutual benefit. She was not working and required proof of the rent to obtain housing benefit. The Respondent obtained a copy of a tenancy agreement from a client and accepts that he entered into an assured shorthold tenancy from 4 December 2010 to the summer of 2015 when he regained possession of the flat following proceedings.
7. Although the Applicant gave evidence of its media campaign in relation to the introduction of the licensing regime on 1 January 2013, there is no evidence to suggest that the Respondent was aware of the need to apply for a licence before he was first contacted by the Applicant in September 2013. An email trail was produced by the Applicant as follows:

*6/10/13 17:15 – Hi there. Sorry for the late contact my tenant was away and she just came back. I could get the letters sent to me. I couldn't find the type of licence I have to apply for. The house is a one bedroom flat with one tenant. Please help. I wish to be contacted by email please. Thanks for your help. Nasa.*

*8/10/13 11:13 – Thank you for your email. Can you please provide us with the address of the property you are referring to, then we will be able to assist you further. In the meantime if you there is just one tenant in a one bedroom flat then it would be a selective licence. Regards. Property Licensing Group.*

*8/10/2013 (no time given) – Thanks for the replay. The address is 49 Kelland rd, e13 8ds. Nasa.*

This trail omits the final email in the chain which was produced by the Respondent at the hearing. That email was an automatic reply from Newham sent on Tuesday 8 October 2013 at 17:05. It was clearly in standard form but did include a commitment to respond shortly. It also contained a reference to the Newham website and a link to applications for licensing.

8. No application for a licence was made and the next contact from Newham was their Notice of Intended Prosecution dated 14 May 2014, following their inspection of the property on 1 May 2014. On the back of the Notice Newham had set out two options: Option 1 was summarised as “accept a formal caution, apply for a licence and pay

costs” and option 2 as “court hearing”, in the event that the alleged offence was contested. The consequences of going down this route were set out as a fine of up to £20,000 in the event of being found guilty and, importantly for this application, the following: *“Furthermore you will still have to apply and pay for a property licence. Plus, upon conviction, the Council or tenant/s may apply to the Residential Property Tribunal for a Rent Repayment Order. If this application is successful you may have to repay up to 12 months rent.”*

9. The Applicant’s evidence stated that on 16 May 2014 they received a telephone call from the Respondent stating that he had not applied for a licence as he was waiting for an answer to his query. Newham responded that he had been told to apply for a selective licence. After an exchange of emails the Respondent submitted his caution and application for a licence on 20 May 2014 together with payment of £800, made up of a £500 application fee and £300 towards Newham’s costs. Both were rejected. The Applicant was not able to provide a clear explanation as to why the caution was rejected, as it appeared to be completed in identical form when it was resubmitted and accepted. The application form had not been fully completed. The most important missing section was the declaration as to management of the property, the Respondent had also put “not sure” in relation to the square metre size of the rooms and missed two questions in relation to fire blankets and extinguishers. The rejected caution and application form were posted by Newham to 45 Kelland Road by mistake. A second letter was emailed which prompted a further telephone call from the Respondent on 29 July 2014. The Applicant’s telephone log records that the Respondent was given advice as to what he needed to fill in and asked to return the application as soon as possible. It was finally accepted by the Applicant on 7 August 2014 and the licence – for up to 4 occupiers - was issued on 15 October 2014.
10. On 4 September 2014 the Applicant served their Notice of Intended Proceedings for the RRO for the period from 5 September 2013 to 6 August 2014. This prompted an emailed complaint by the Respondent on 8 September 2014 and written representations which were received by the Applicant on 12 September 2014. The Applicant responded on 23 September stating that they would proceed with the application, which was made on or around 18 November 2015.

## **The Law**

11. The main statutory provisions are attached to this decision as an Appendix. The remaining issues for the tribunal to consider are:
  - (i) Has the Respondent committed an offence under section 95(1) (whether or not he was charged or convicted) within the period of 12 months ending with the date of the notice of intended proceedings?

- (ii) Had housing benefit been paid when an offence was committed? How much and when is the correct period?
  - (iii) Has the applicant complied with the requirements set out in section 96 (7) of the Act? Has it considered any representations made to it by the Respondent?
  - (iv) Should the amount of any order be limited because the total amount received by the appropriate person is less than the total amount of housing benefit paid (section 97(3))?
12. In this case there has been no conviction and therefore the amount of any RRO is such amount as the tribunal considers reasonable in the circumstances. When deciding what is reasonable, the tribunal must take into account the factors spelt out in section 97(6). In the directions the parties' attention was also drawn to the cases of *Parker v Waller* [2012] UKUT 301 (LC) and *Fallon v Wilson* [2014] UKUT 0300 (LC), which are relevant to the exercise of discretion even though those cases involved applications by tenants.

### **Has the respondent committed an offence (Failure to licence)?**

13. Section 95 (1) states that a person commits an offence if he is a person having control or managing a house which is required to be licensed and does not have one. The section provides for two relevant defences: that an application for a licence has been "duly made" or that the person has a "reasonable excuse" for not having applied for a licence.
14. The Applicant relies on the fact that the Respondent admitted the offence and agreed to accept a formal caution from the Applicant. The Respondent maintained that this was on the basis that he understood following this option would be the end of the matter and was unaware that the Applicant could apply for an RRO. As set out in paragraph 8 above, this position was given some support by the Applicant's standard correspondence which clearly sets out two options and only includes a reference to an RRO as a consequence of a conviction following the second option. If the risk of an RRO had been set out under the first option it may be that the Respondent would have contested the offence.
15. So does either defence apply, regardless of the caution? For the avoidance of doubt, the fact that the Respondent was unaware of the selective licensing regime before October 2013 is not in the view of the tribunal a "reasonable excuse". From October 2013 to May 2014, the Respondent maintains that he did not apply for a licence as he was waiting for the advice promised by the Applicant. The Applicant maintains that he was told to apply for a selective licence. The tribunal accepts both parties' evidence on this point but does not consider in all the circumstances that the Respondent has a "reasonable excuse" such as to give him a defence, as he is in effect relying on his own ignorance.
16. The second relevant defence is that an application for a licence has been "duly made". Under section 87 of the Act that means that it has to

be in accordance with such requirements as the authority may specify. The Applicant's case is that this was not until 7 August 2014, hence the dates of the Rent Repayment Order sought. The Respondent tried to apply on 20 May 2014 but as set out above, his application was rejected. Given the omissions on the application form, the tribunal does not consider that this application was duly made before 7 August 2014 so as to provide for a defence.

17. The tribunal therefore determines that the respondent has committed an offence under section 95(1).

### **Had housing benefit been paid?**

18. There was no dispute that the Respondent's tenant had applied for and received housing benefit amounting to £7,476.96 for the period in question. The issue was whether the Respondent had received the full amount, as dealt with in paragraph 23 below.

### **Has the applicant complied with the requirements set out in Section 96(7) of the Act?**

19. Section 96(7) relates to the notice of intended proceedings and contains requirements for that notice, including giving a period of not less than 28 days for representations which the authority must consider. As set out in paragraph 9 above the notice was dated 4 September 2014 and gave the Respondent until 8 October to make his representations. They were received and rejected by letter dated 23 September 2014, the reasons focused on the issue of whether the Respondent should have applied for a licence back in October 2013. Ms Srokowska stated: "*On the 8<sup>th</sup> of October 2013 the officer from the licensing technical team responded to your enquiry informing you that you would have to apply for a selective licence in your circumstances. On the same day you sent an email to the officer thanking her for the information provided.*" The tribunal does not consider this to be a wholly accurate representation of the emails as set out in paragraph 7 above. In particular, no account is taken of the fact that the Applicant had clearly promised to give the Respondent further help.
20. There is also no apparent consideration of the Respondent's representations about the background to the tenancy, the delay in the application process being contributed to by the Applicant, the Respondent's finances or his statement that the council was going back on its word, having accepted a caution as opposed to proceeding to a prosecution. Instead, the Applicant appeared to focus on establishing their case as a further delay was caused by their enquiries as to the amount of housing benefit paid and received. That evidence was sent in January 2015 together with confirmation that there had been an error in the original notice as to the amount of benefit paid. A further 14 days was given for further representations. The Respondent sent in a letter from Cavanagh Kelly, accountants in respect of V.H.McDevitt & Son Limited, in administration. Ms Srokowska queried the relevance of

that letter and no reply was provided in the bundle. At the hearing the Respondent confirmed that V.H.McDevitt had been his employers and the relevance was to show his reduced financial circumstances.

21. The tribunal determines that the Applicant has not demonstrated that it took all of the Respondent's representations into account such as to satisfy section 96(7). The letter dated 23 September 2014 contains no reasoning as to why the representations in relation to the background to the tenancy, the Respondent's finances, the delay caused by the Applicant and the failure to make it clear to the Respondent that if he signed a caution an application for an RRO would be made in any event were rejected. These are all relevant representations to the exercise by the Applicant of its discretion to proceed with their application and adequate reasons are required to demonstrate that they have indeed been considered.
22. In the circumstances, the application fails on this ground. However, for the sake of completeness, the tribunal considers it is appropriate to consider the exercise of its discretion.

#### **Did the Respondent receive the full housing benefit?**

23. The Respondent's representations stated his tenant had paid him some £5,456 rather than the £7,476.96 housing benefit paid by the Applicant. The rent for the period in question was £675 per calendar month. It was agreed that the tenant paid £280 per fortnight, compared to the housing benefit of some £310. The Applicant relied on a written statement by the tenant which stated that she paid the Respondent's service charges and other bills to make up the rent in full. The Respondent's evidence was that initially the tenant did make an additional contribution but that stopped in May 2014 after the visit from the council. In the absence of full copies of the relevant statements and the tenant herself, the tribunal accepts the Respondent's evidence. This would mean a reduction of £30 a fortnight from June to August 2014, being some £150.

#### **The Tribunal's discretion - factors to be taken into account**

24. Given the findings above, the only additional relevant factor which must be taken into account under section 97(6) of the Act is the conduct and financial circumstances of the Respondent. In terms of conduct, the tribunal considers, following *Fallon v Wilson* [2014] UKUT 0300 (LC) that it is relevant that the Respondent was, if anything, an "accidental" landlord, the property was and is now his home, the rent was comparatively low and there were no concerns with the condition of the property. This is not a case of a professional landlord deliberately flouting the law, the Respondent was unaware of the need for a licence and the evidence shows that he engaged with the Applicant both in October 2013 and the following year. The delay between October 2013 and May 2014 was not solely down to the Respondent – the tribunal has accepted that he was waiting to hear

further from the Applicant who made the decision to delay their inspection of properties in that area until the following May. From May, the delay was again down to both parties and there is no evidence that the Respondent was being deliberately obstructive, he navigated the process to the best of his ability. On the other hand, Newham did not always facilitate the process – the tribunal heard evidence that they had prevented the Respondent from making payments on line.

25. The Respondent provided clear evidence of difficult financial circumstances, he has an overdraft on both of his bank accounts, is a part-time student and is out of work at present. He has some equity in his property, although it was unclear how much. He also gave evidence that he had in reality made little if no profit from renting his property, his mortgage payments are in the region of £480 per month and he had to pay for alternative accommodation for himself from 2012 until he obtained possession in 2015. He had paid a punitive rate for the licence: £500 for one year as opposed to £150 for 5 years. He had also paid the Applicant £300 towards their costs.
26. The Respondent had written of communication difficulties between him and Ms Srokowska. Neither party spoke English as their first language and the Respondent stated “we couldn’t understand each other”. It also became apparent that Ms Srokowska had advised the tenant not to correspond with the Respondent which may have added to the degree of animosity which appeared to have developed between them. The Respondent felt that he had been misled by Newham and the tribunal agrees that the Notice of Intended Prosecution letter should make it clear that an RRO can follow a caution as well as a prosecution.
27. In all the circumstances of this case, even if the tribunal had found that the Applicant satisfied the requirements of section 96(7), we would have exercised our discretion to refuse the RRO.

**Name: Ruth Wayte**

**Date: 4 April 2016**



## Annex: Housing Act 2004

### 95 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 85(1)) but is not so licensed.

(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 90(6), 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—

(a) a notification had been duly given in respect of the house under section 62(1) or 86(1), or

(b) an application for a licence had been duly made in respect of the house under section 87,

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—

(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.

(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—

(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, one of the conditions set out in subsection (8) is met

(8) The conditions are—

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of a residential property tribunal) has not expired, or

(b) that an appeal has been brought against the authority’s decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(9) In subsection (8) “relevant decision” means a decision which is given on an appeal to the tribunal and confirms the authority’s decision (with or without variation)

## 96 Other consequences of operating unlicensed houses: rent repayment orders

(1) For the purposes of this section a house is an “unlicensed house” if—

(a) it is required to be licensed under this Part but is not so licensed, and

(b) neither of the conditions in subsection (2) is satisfied.

(2) The conditions are—

(a) that a notification has been duly given in respect of the house under section 62(1) or 86(1) and that notification is still effective (as defined by section 95(7));

(b) that an application for a licence has been duly made in respect of the house under section 87 and that application is still effective (as so defined).

(3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—

(a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of the whole or a part of an unlicensed house, or

(b) any other provision of such a tenancy or licence.

(4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 97.

(5) If—

(a) an application in respect of a house is made to a residential property tribunal by the local housing authority or an occupier of the whole or part of the house, and

(b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8),

the tribunal may make an order (a “rent repayment order”) requiring the appropriate person to pay to the applicant such amount in respect of the housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 97(2) to (8)).

(6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—

(a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 95(1) in relation to the house (whether or not he has been charged or convicted),

(b) that housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of the whole or any part or parts of the house during any period during which it appears to the tribunal that such an offence was being committed, and

(c) that the requirements of subsection (7) have been complied with in relation to the application.

(7) Those requirements are as follows—

(a) the authority must have served on the appropriate person a notice (a “notice of intended proceedings”)—

(i) informing him that the authority are proposing to make an application under subsection (5),

(ii) setting out the reasons why they propose to do so,

(iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and

(iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;

(b) that period must have expired; and

(c) the authority must have considered any representations made to them within that period by the appropriate person.

(8) If the application is made by an occupier of the whole or part of the house, the tribunal must be satisfied as to the following matters—

(a) that the appropriate person has been convicted of an offence under section 95(1) in relation to the house, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of the whole or any part or parts of the house,

(b) that the occupier paid, to a person having control of or managing the house, periodical payments in respect of occupation of the whole or part of the house during any period during which it appears to the tribunal that such an offence was being committed in relation to the house, and

(c) that the application is made within the period of 12 months beginning with—

(i) the date of the conviction or order, or

(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

(9) Where a local housing authority serve a notice of intended proceedings on any person under this section, they must ensure—

(a) that a copy of the notice is received by the department of the authority responsible for administering the housing benefit to which the proceedings would relate; and

(b) that that department is subsequently kept informed of any matters relating to the proceedings that are likely to be of interest to it in connection with the administration of housing benefit.

(10) In this section—

- “the appropriate person”, in relation to any payment of housing benefit or periodical payment payable in connection with occupation of the whole or a part of a house, means the person who at the time of the payment was entitled to receive on his own account periodical payments payable in connection with such occupation;
- “housing benefit” means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (c. 4);
- “occupier”, in relation to any periodical payment, means a person who was an occupier at the time of the payment, whether under a tenancy or licence (and “occupation” has a corresponding meaning);
- “periodical payments” means periodical payments in respect of which housing benefit may be paid by virtue of regulation 10 of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) or any corresponding provision replacing that regulation.

(11) For the purposes of this section an amount which—

(a) is not actually paid by an occupier but is used by him to discharge the whole or part of his liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and

(b) is not an amount of housing benefit,

is to be regarded as an amount paid by the occupier in respect of that periodical payment

## 97 Further provisions about rent repayment orders

(1) This section applies in relation to orders made by residential property tribunals under section 96(5).

(2) Where, on an application by the local housing authority, the tribunal is satisfied—

(a) that a person has been convicted of an offence under section 95(1) in relation to the house, and

(b) that housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with occupation of the whole or any part or parts of the house during any period during which it appears to the tribunal that such an offence was being committed in relation to the house,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority an amount equal to the total amount of housing benefit paid as mentioned in paragraph (b).

This is subject to subsections (3), (4) and (8).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (2) (“the rent total”) is less than the total amount of housing benefit paid as mentioned in that paragraph, the amount required to be paid by virtue of a rent repayment order made in accordance with that subsection is limited to the rent total.

(4) A rent repayment order made in accordance with subsection (2) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(5) In a case where subsection (2) does not apply, the amount required to be paid by virtue of a rent repayment order under section 96(5) is to be such amount as the tribunal considers reasonable in the circumstances.

This is subject to subsections (6) to (8).

(6) In such a case the tribunal must, in particular, take into account the following matters—

(a) the total amount of relevant payments paid in connection with occupation of the house during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the house under section 95(1);

(b) the extent to which that total amount—

(i) consisted of, or derived from, payments of housing benefit, and

(ii) was actually received by the appropriate person;

(c) whether the appropriate person has at any time been convicted of an offence under section 95(1) in relation to the house;

(d) the conduct and financial circumstances of the appropriate person; and

(e) where the application is made by an occupier, the conduct of the occupier.

(7) In subsection (6) “relevant payments” means—

(a) in relation to an application by a local housing authority, payments of housing benefit or periodical payments payable by occupiers;

(b) in relation to an application by an occupier, periodical payments payable by the occupier, less any amount of housing benefit payable in respect of occupation of the house, or (as the case may be) the part of it occupied by him, during the period in question.

(8) A rent repayment order may not require the payment of an amount which—

(a) (where the application is made by a local housing authority) is in respect of any time falling outside the period of 12 months mentioned in section 96(6)(a); or

(b) (where the application is made by an occupier) is in respect of any time falling outside the period of 12 months ending with the date of the occupier’s application under section 96(5);

and the period to be taken into account under subsection (6)(a) above is restricted accordingly.

(9) Any amount payable to a local housing authority under a rent repayment order—

(a) does not, when recovered by the authority, constitute an amount of housing benefit recovered by them, and

(b) is, until recovered by them, a legal charge on the house which is a local land charge.

(10) For the purpose of enforcing that 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, and of accepting surrenders of leases and of appointing a receiver.

(11) 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.

(12) If the authority subsequently grant a licence under Part 2 or this Part in respect of the house to the appropriate person or any person acting on his behalf, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to pay to the authority any amount payable to them under the rent repayment order and not so far recovered by them; and

(b) to do so in such instalments as are specified in the licence.

(13) If the authority subsequently make a management order under Chapter 1 of Part 4 in respect of the house, the order may contain such provisions as the authority consider appropriate for the recovery of any amount payable to them under the rent repayment order and not so far recovered by them.

(14) Any amount payable to an occupier by virtue of a rent repayment order is recoverable by the occupier as a debt due to him from the appropriate person.

(15) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of this section and section 96, and in particular—

(a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of housing benefit or otherwise);

(b) for requiring or authorising amounts received by local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

(16) Section 96(10) and (11) apply for the purposes of this section as they apply for the purposes of section 96.