

SCHEDULES

SCHEDULE 6

Section 123

MANAGEMENT ORDERS: PROCEDURE AND APPEALS

PART 1

PROCEDURE RELATING TO MAKING OF MANAGEMENT ORDERS

Requirements before making final management order

- 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 - (b) consider any representations made in accordance with the notice and not withdrawn.
- 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
 - (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.
(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 - (b) consider any representations made in accordance with the notice and not withdrawn.
- 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.

Exceptions from requirements relating to making of final management order

- 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.

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- 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
 - (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.
- (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.
- (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,
 - (b) the general effect of the order, and
 - (c) the date on which the order is to cease to have effect in accordance with section 105(4) and (5) or 114(3) and (4) (or, if applicable, how the date mentioned in section 105(6) is to be determined),
- 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.
- (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 any such appeal may be made (see paragraph 25(2)).
- (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”

- 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
 - (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.

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- (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.
- (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
 - (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

Variation of management orders

- 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 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.
- 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—
 - (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)).
 - (3) The documents 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.

Exceptions from requirements of paragraph 9

- 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—

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- (a) have already served a notice under that paragraph in relation to a proposed variation; and
- (b) consider that the variation which is now being proposed is not materially different from the previous proposed variation.

Refusal to vary interim or final management order

- 14 Before refusing to vary 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.
- 15 The notice under paragraph 14 must state that the authority are proposing to refuse to make the variation and set out—
- (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—
- (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)).
- (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.

Revocation of management orders

- 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.
- 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.
- (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—
 - (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

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(iii) the period within which an appeal may be made (see paragraph 29(2)).

- (3) The documents 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.

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.
- 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.
- 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;
 - (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.

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.
- (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.
- (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
 - (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.

- 24 (1) A relevant person may appeal to a residential property tribunal 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) Except to the extent that an appeal may be made in accordance with sub-paragraphs (3) and (4), sub-paragraph (1) does not apply to an interim management order made under section 102(4) or (7) or in accordance with a direction given under paragraph 26(5).
- (3) An appeal may be made under sub-paragraph (1)(b) on the grounds that the terms of an interim management order do not provide for one or both of the matters mentioned in section 110(5)(a) and (b) (which relate to payments of surplus rent etc.).
- (4) Where an appeal is made under sub-paragraph (1)(b) only on those grounds—
- (a) the appeal may be brought at any time while the order is in force (with the result that nothing in sub-paragraph (5) or paragraph 25 applies in relation to the appeal); and
 - (b) the powers of the residential property tribunal under paragraph 26 are limited to determining whether the order should be varied by the tribunal so as to include a term providing for the matter or matters in question, and (if so) what provision should be made by the term.
- (5) 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.

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 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7(5) as the date on which the order was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of residential property tribunal on appeal under paragraph 24

- 26 (1) This paragraph applies to an appeal to a residential property tribunal 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

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- (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal 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 tribunal’s order, or
 - (b) (in the case of a final management order) as from the date of the tribunal’s order.
- (4) If —
 - (a) the tribunal revokes an interim or final management order,
 - (b) it appears to the tribunal 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 tribunal does not give a direction under sub-paragraph (5) or (6),the tribunal must direct the local housing authority to grant such a licence to such person and on such terms as the tribunal may direct.
- (5) If the tribunal revokes a final management order, the tribunal 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 tribunal may direct.

This applies despite section 102(9).
- (6) If the tribunal revokes a final management order, the tribunal may direct the local housing authority to serve a temporary exemption notice under section 62 or 86 in respect of the house that comes into force on such date as the tribunal directs.
- (7) The revocation of an interim management order by the tribunal does not affect the validity of anything previously done in pursuance of the order.

“The operative time” for the purposes of section 114(2)

- 27
- (1) This paragraph defines “the operative time” for the purposes of section 114(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.
 - (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 Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.
 - (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.

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

- 28
- A relevant person may appeal to a residential property tribunal against—

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- (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.

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.
- (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) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of residential property tribunal on appeal under paragraph 28

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

“The operative time” for the purposes of section 111(2), 112(2), 121(2) or 122(2)

- 31 (1) This paragraph defines “the operative time” for the purposes of—
- (a) section 111(2) or 112(2) (variation or revocation of interim management order), or
 - (b) section 121(2) or 122(2) (variation or revocation of final management order).
- (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—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation.

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- (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 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.

Right to appeal against decision in respect of compensation payable to third parties

- 32 (1) This paragraph applies where a local housing authority have made a decision under section 128 as to whether compensation should be paid to a third party in respect of any interference with his rights in consequence of an interim or final management order.
- (2) The third party may appeal to a residential property tribunal against—
- (a) a decision by the authority not to pay compensation to him, or
 - (b) a decision of the authority so far as relating to the amount of compensation that should be paid.

Time limits for appeals under paragraph 32

- 33 (1) This paragraph applies in relation to an appeal under paragraph 32 against a decision of a local housing authority not to pay compensation to a third party or as to the amount of compensation to be paid.
- (2) Any such appeal must be made within the period of 28 days beginning with the date the authority notifies the third party under section 128(2).
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of residential property tribunal on appeal under paragraph 32

- 34 (1) This paragraph applies in relation to an appeal under paragraph 32 against a decision of a local housing authority not to pay compensation to a third party or as to the amount of compensation to be paid.
- (2) The appeal—
- (a) is to be by way of re-hearing, but
 - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) Where the tribunal reverses or varies a decision of the authority in respect of a final management order, it must make an order varying the management scheme contained in the final management order accordingly.

Meaning of “relevant person”

- 35 In this Part of this Schedule “relevant person” means—

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- (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.