

## SCHEDULES

### SCHEDULE 6

#### MANAGEMENT ORDERS: PROCEDURE AND APPEALS

#### 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.

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- (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
  - (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;

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- (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—
- (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).

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- (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.
- (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—
- (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.