

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Housing Act 2004, SCHEDULE 7 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 132

FURTHER PROVISIONS REGARDING EMPTY DWELLING MANAGEMENT ORDERS

PART 1

INTERIM EDMOS

VALID FROM 06/04/2006

Operation of interim EDMOs

- 1
- (1) This paragraph deals with the time when an interim EDMO comes into force or ceases to have effect.
 - (2) The order comes into force when it is made.
 - (3) 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.
 - (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.
 - (5) Sub-paragraphs (6) and (7) apply where—
 - (a) a final EDMO (“the final EDMO”) has been made under section 136 so as to replace the order (“the interim EDMO”), but
 - (b) the final EDMO has not come into force because of an appeal to a residential property tribunal under paragraph 26 against the making of the final EDMO.
 - (6) If the date on which the final EDMO comes into force in relation to the dwelling following the disposal of the appeal is later than the date on which the interim EDMO would cease to have effect apart from this sub-paragraph, the interim EDMO continues in force until that later date.
 - (7) If, on the application of the authority, the tribunal makes an order providing for the interim EDMO to continue in force, pending the disposal of the appeal, until a date later than that on which the interim EDMO would cease to have effect apart from this sub-paragraph, the interim EDMO accordingly continues in force until that later date.
 - (8) This paragraph has effect subject to paragraphs 6 and 7 (variation or revocation of orders by authority) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 30.

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Commencement Information

- II** Sch. 7 para. 1 wholly in force at 16.6.2006; Sch. 7 para. 1 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 1 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 1 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

General effect of interim EDMOs

- 2 (1) This paragraph applies while an interim EDMO is in force in relation to a dwelling.
- (2) The rights and powers conferred by sub-paragraph (3) are exercisable by the authority in performing their duties under section 135(1) to (3) in respect of the dwelling.
- (3) The authority—
- (a) have the right to possession of the dwelling (subject to the rights of existing occupiers preserved by paragraph 18(3));
 - (b) have the right to do (and authorise a manager or other person to do) in relation to the dwelling anything which the relevant proprietor of the dwelling would (but for the order) be entitled to do;
 - (c) may create one or more of the following—
 - (i) an interest in the dwelling 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 dwelling;
 - (d) may apply to a residential property tribunal for an order under paragraph 22 determining a lease or licence of the dwelling.
- (4) But the authority may not under sub-paragraph (3)(c) create any interest or right in the nature of a lease or licence unless—
- (a) consent in writing has been given by the relevant proprietor of the dwelling, and
 - (b) where the relevant proprietor is a lessee under a lease of the dwelling, the interest or right is created for a term that is less than the term of that lease.
- (5) The authority—
- (a) do not under this paragraph acquire any estate or interest in the dwelling, and
 - (b) accordingly are not entitled by virtue of this paragraph to sell, lease, charge or make any other disposition of any such estate or interest.
- (6) But, where the relevant proprietor of the dwelling is a lessee under a lease of the dwelling, the authority are to be treated (subject to sub-paragraph (5)(a)) as if they were the lessee instead.
- (7) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
- (a) a lease in relation to which the authority are to be treated as the lessee under sub-paragraph (6), or

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- (b) a lease to which the authority become a party under paragraph 4(2), as if the authority were the legal owner of the premises (but this is subject to paragraph 4(4) to (6)).
- (8) None of the following, namely—
- (a) the authority, or
 - (b) any person authorised under sub-paragraph (3)(b),
- is liable to any person having an estate or interest in the dwelling for anything done or omitted to be done in the performance (or intended performance) of the authority’s duties under section 135(1) to (3) unless the act or omission is due to negligence of the authority or any such person.
- (9) An interim EDMO which has come into force is a local land charge.
- (10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register of title in respect of such an order.
- (11) In this paragraph “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Commencement Information

- I2** Sch. 7 para. 2 wholly in force at 16.6.2006; Sch. 7 para. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 2 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 2 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

General effect of interim EDMOs: leases and licences granted by authority

- 3 (1) This paragraph applies in relation to any interest or right created by the authority under paragraph 2(3)(c).
- (2) For the purposes of any enactment or rule of law—
- (a) any interest created by the authority under paragraph 2(3)(c)(i) is to be treated as if it were a legal lease, and
 - (b) any right created by the authority under paragraph 2(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the dwelling, despite the fact that the authority have no legal estate in the dwelling (see paragraph 2(5)(a)).
- (3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under paragraph 2(3)(c)(i) as if the authority were the legal owner of the dwelling.
- (4) References to leases and licences—
- (a) in this Chapter, and
 - (b) in any other enactment,
- accordingly include (where the context permits) interests and rights created by the authority under paragraph 2(3)(c).
- (5) The preceding provisions of this paragraph have effect subject to—
- (a) paragraph 4(4) to (6), and

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- (b) any provision to the contrary contained in an order made by the appropriate national authority.
- (6) In paragraph 2(5)(b) the reference to leasing does not include the creation of interests under paragraph 2(3)(c)(i).
- (7) In this paragraph—
 - “enactment” has the meaning given by paragraph 2(11);
 - “legal lease” means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

Commencement Information

- I3** Sch. 7 para. 3 wholly in force at 16.6.2006; Sch. 7 para. 3 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 7 para. 3 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 3 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

General effect of interim EDMOs: relevant proprietor, mortgagees etc.

- 4 (1) This paragraph applies in relation to—
- (a) the relevant proprietor, and
 - (b) other persons with an estate or interest in the dwelling,
- while an interim EDMO is in force in relation to a dwelling.
- (2) Where the relevant proprietor is a lessor or licensor under a lease or licence of the dwelling, 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.
- (3) 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 dwelling.
- (4) The provisions mentioned in sub-paragraph (5) do not apply to a lease or licence within sub-paragraph (2).
- (5) The provisions are—
- (a) the provisions which exclude local authority lettings from the Rent Acts, namely—
 - (i) sections 14 to 16 of the Rent Act 1977 (c. 42), and
 - (ii) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act; and
 - (b) section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act).
- (6) Nothing in this Chapter 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

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- (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).
- (7) The relevant proprietor of the dwelling—
- (a) is not entitled to receive any rents or other payments made in respect of occupation of the dwelling;
 - (b) may not exercise any rights or powers with respect to the management of the dwelling; and
 - (c) may not create any of the following—
 - (i) any leasehold interest in the dwelling or a part of it (other than a lease of a reversion), or
 - (ii) any licence or other right to occupy it.
- (8) However (subject to sub-paragraph (7)(c)) nothing in paragraph 2 or this paragraph affects the ability of a person having an estate or interest in the dwelling to make any disposition of that estate or interest.
- (9) Nothing in paragraph 2 or this paragraph affects—
- (a) the validity of any mortgage relating to the dwelling or any rights or remedies available to the mortgagee under such a mortgage, or
 - (b) the validity of any lease of the dwelling under which the relevant proprietor is a lessee, or any superior lease, or (subject to paragraph 2(6)) any rights or remedies available to the lessor under such a lease,
- except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under paragraph 2(3)(c).
- (10) 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 EDMO (including an order quashing it).

Commencement Information

- I4** Sch. 7 para. 4 wholly in force at 16.6.2006; Sch. 7 para. 4 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 4 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 4 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

Financial arrangements while order is in force

- 5 (1) This paragraph applies to relevant expenditure of a local housing authority who have made an interim EDMO.
- (2) “Relevant expenditure” means—
- (a) expenditure incurred by the authority with the consent of the relevant proprietor, or
 - (b) any other expenditure reasonably incurred by the authority, in connection with performing their duties under section 135(1) to (3) in respect of the dwelling (including any premiums paid for insurance of the premises).

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- (3) Rent or other payments which the authority have collected or recovered, by virtue of this Chapter, from persons occupying or having the right to occupy the dwelling may be used by the authority to meet—
- (a) relevant expenditure, and
 - (b) any amounts of compensation payable to a third party by virtue of an order under section 134(4) or 138(2) or to a dispossessed landlord or tenant by virtue of an order under paragraph 22(5).
- (4) The authority must pay to the relevant proprietor—
- (a) any amount of rent or other payments collected or recovered as mentioned in sub-paragraph (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that sub-paragraph, and
 - (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 interim EDMO may provide for—
- (a) the rate of interest which is to apply for the purposes of paragraph (b) of sub-paragraph (4); and
 - (b) the intervals at which payments are to be made under that sub-paragraph.
- Paragraph 26(1)(c) enables an appeal to be brought where the order does not provide for both of those matters.
- (6) The authority must—
- (a) keep full accounts of their income and expenditure in respect of the dwelling; and
 - (b) afford to the relevant proprietor, and to any other person who has an estate or interest in the dwelling, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (7) The relevant proprietor may apply to a residential property tribunal for an order—
- (a) declaring that an amount shown in the accounts as expenditure of the authority does not constitute relevant expenditure (see sub-paragraph (2));
 - (b) requiring the authority to make such financial adjustments (in the accounts and otherwise) as are necessary to reflect the tribunal's declaration.
- (8) In this paragraph—
- “dispossessed landlord or tenant” means a person who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order under paragraph 22;
- “expenditure” includes administrative costs.

Commencement Information

- I5** Sch. 7 para. 5 wholly in force at 16.6.2006; Sch. 7 para. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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VALID FROM 06/04/2006

Variation or revocation of interim EDMOs

- 6
- (1) The local housing authority may vary an interim EDMO 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 sub-paragraph under paragraph 33 (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 paragraph 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 paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c)).

Commencement Information

16 Sch. 7 para. 6 wholly in force at 16.6.2006; Sch. 7 para. 6 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 6 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 6 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 7
- (1) The local housing authority may revoke an interim EDMO in the following cases—
 - (a) where the authority conclude that there are no steps which they could appropriately take for the purpose of securing that the dwelling is occupied (see section 135(4));
 - (b) where the authority are satisfied that—
 - (i) the dwelling will either become or continue to be occupied, despite the order being revoked, or
 - (ii) that the dwelling is to be sold;
 - (c) where a final EDMO has been made by the authority in respect of the dwelling so as to replace the order;
 - (d) where the authority conclude that it would be appropriate to revoke the order in order to prevent or stop interference with the rights of a third party in consequence of the order; and
 - (e) where in any other circumstances the authority consider it appropriate to revoke the order.
 - (2) But, in a case where the dwelling is occupied, the local housing authority may not revoke an interim EDMO under sub-paragraph (1)(b), (d) or (e) unless the relevant proprietor consents.
 - (3) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this sub-paragraph under paragraph 33 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal).

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- (4) The power to revoke an order under this paragraph is exercisable by the authority either—
- (a) on an application made by a relevant person, or
 - (b) on the authority’s own initiative.
- (5) Where a relevant person applies to the authority for the revocation of an order under this paragraph, the authority may refuse to revoke the order unless the relevant proprietor (or some other person) agrees to pay to the authority any deficit such as is mentioned in paragraph 23(4).
- (6) In this paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c)).

Commencement Information

I7 Sch. 7 para. 7 wholly in force at 16.6.2006; Sch. 7 para. 7 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 7 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 7 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 8 (1) Part 2 of Schedule 6 applies in relation to the variation or revocation of an interim EDMO as it applies in relation to the variation or revocation of an interim management order.
- (2) But Part 2 of that Schedule so applies as if—
- (a) references to the right of appeal under Part 3 of the Schedule and to paragraph 29(2) were to the right of appeal under Part 4 of this Schedule and to paragraph 31(2) of this Schedule, and
 - (b) paragraph 23(4) defined “relevant person” as any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) of this Schedule).

Commencement Information

I8 Sch. 7 para. 8 wholly in force at 16.6.2006; Sch. 7 para. 8 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 8 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 8 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

PART 2

FINAL EDMOS

VALID FROM 06/04/2006

Operation of final EDMOs

- 9 (1) This paragraph deals with the time when a final EDMO comes into force or ceases to have effect.

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- (2) The order does not come into force until such time (if any) as is the operative time for the purposes of this sub-paragraph under paragraph 29 (time when period for appealing expires without an appeal being made or when order is confirmed on appeal).
- (3) The order ceases to have effect at the end of the period of 7 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.
- (5) If—
 - (a) the order provides that it is to cease to have effect on a date falling after the end of that period, and
 - (b) the relevant proprietor of the dwelling has consented to that provision, the order accordingly ceases to have effect on that date.
- (6) Sub-paragraphs (7) and (8) apply where—
 - (a) a new final EDMO (“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 residential property tribunal under paragraph 26 against the making of that order.
- (7) If the date on which the new order comes into force in relation to the dwelling following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this sub-paragraph, the existing order continues in force until that later date.
- (8) If, on the application of the authority, the tribunal 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 sub-paragraph, the existing order accordingly continues in force until that later date.
- (9) This paragraph has effect subject to paragraphs 15 and 16 (variation or revocation of orders) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 26 or 30.

Commencement Information

- 19** Sch. 7 para. 9 wholly in force at 16.6.2006; Sch. 7 para. 9 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 9 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 9 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

General effect of final EDMOs

- 10 (1) This paragraph applies while a final EDMO is in force in relation to a dwelling.

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- (2) The rights and powers conferred by sub-paragraph (3) are exercisable by the authority in performing their duties under section 137(1) to (3) in respect of the dwelling.
- (3) The authority—
- (a) have the right to possession of the dwelling (subject to the rights of existing and other occupiers preserved by paragraph 18(3) and (4));
 - (b) have the right to do (and authorise a manager or other person to do) in relation to the dwelling anything which the relevant proprietor of the dwelling would (but for the order) be entitled to do;
 - (c) may create one or more of the following—
 - (i) an interest in the dwelling 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 dwelling;
 - (d) may apply to a residential property tribunal for an order under paragraph 22 determining a lease or licence of the dwelling.
- (4) The powers of the authority under sub-paragraph (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, unless consent in writing has been given by the relevant proprietor;
 - (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.
- (5) The authority—
- (a) do not under this paragraph acquire any estate or interest in the dwelling, and
 - (b) accordingly are not entitled by virtue of this paragraph to sell, lease, charge or make any other disposition of any such estate or interest.
- (6) But, where the relevant proprietor of the dwelling is a lessee under a lease of the dwelling, the authority are to be treated (subject to sub-paragraph (5)(a)) as if they were the lessee instead.
- (7) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
- (a) a lease in relation to which the authority are to be treated as the lessee under sub-paragraph (6), or
 - (b) a lease to which the authority become a party under paragraph 12(2), as if the authority were the legal owner of the premises (but this is subject to paragraph 12(4) to (6)).
- (8) None of the following, namely—
- (a) the authority, or
 - (b) any person authorised under sub-paragraph (3)(b),

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is liable to any person having an estate or interest in the dwelling for anything done or omitted to be done in the performance (or intended performance) of the authority's duties under section 137(1) to (3) unless the act or omission is due to negligence of the authority or any such person.

- (9) A final EDMO which has come into force is a local land charge.
- (10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register in respect of such an order.
- (11) In this paragraph “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Commencement Information

I10 Sch. 7 para. 10 wholly in force at 16.6.2006; Sch. 7 para. 10 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 10 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 10 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

General effect of final EDMOs: leases and licences granted by authority

- 11 (1) This paragraph applies in relation to any interest or right created by the authority under paragraph 10(3)(c).
- (2) For the purposes of any enactment or rule of law—
 - (a) any interest created by the authority under paragraph 10(3)(c)(i) is to be treated as if it were a legal lease, and
 - (b) any right created by the authority under paragraph 10(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the dwelling, despite the fact that the authority have no legal estate in the dwelling (see paragraph 10(5)(a)).
- (3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under paragraph 10(3)(c)
 - (i) as if the authority were the legal owner of the dwelling.
- (4) References to leases and licences—
 - (a) in this Chapter, and
 - (b) in any other enactment,accordingly include (where the context permits) interests and rights created by the authority under paragraph 10(3)(c).
- (5) The preceding provisions of this paragraph have effect subject to—
 - (a) paragraph 12(4) to (6), and
 - (b) any provision to the contrary contained in an order made by the appropriate national authority.
- (6) In paragraph 10(5)(b) the reference to leasing does not include the creation of interests under paragraph 10(3)(c)(i).
- (7) In this paragraph—

“enactment” has the meaning given by paragraph 10(11);

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: *Housing Act 2004, SCHEDULE 7 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“legal lease” means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

Commencement Information

- I11** Sch. 7 para. 11 wholly in force at 16.6.2006; Sch. 7 para. 11 in force at for certain purposes at Royal Assent see s. 270(2)(b); Sch. 7 para. 11 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 11 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

General effect of final EDMOs: relevant proprietor, mortgagees etc.

- 12 (1) This paragraph applies in relation to—
- (a) the relevant proprietor, and
 - (b) other persons with an estate or interest in the dwelling,
- while a final EDMO is in force in relation to a dwelling.
- (2) Where the relevant proprietor is a lessor or licensor under a lease or licence of the dwelling, 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.
- (3) 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 dwelling.
- (4) The provisions mentioned in sub-paragraph (5) do not apply to a lease or licence within sub-paragraph (2).
- (5) The provisions are—
- (a) the provisions which exclude local authority lettings from the Rent Acts, namely—
 - (i) sections 14 to 16 of the Rent Act 1977 (c. 42), and
 - (ii) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act; and
 - (b) section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act).
- (6) Nothing in this Chapter 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).
- (7) The relevant proprietor of the dwelling—
- (a) is not entitled to receive any rents or other payments made in respect of occupation of the dwelling;
 - (b) may not exercise any rights or powers with respect to the management of the dwelling; and
 - (c) may not create any of the following—

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- (i) any leasehold interest in the dwelling or a part of it (other than a lease of a reversion), or
 - (ii) any licence or other right to occupy it.
- (8) However (subject to sub-paragraph (7)(c)) nothing in paragraph 10 or this paragraph affects the ability of a person having an estate or interest in the dwelling to make any disposition of that estate or interest.
- (9) Nothing in paragraph 10 or this paragraph affects—
- (a) the validity of any mortgage relating to the dwelling or any rights or remedies available to the mortgagee under such a mortgage, or
 - (b) the validity of any lease of the dwelling under which the relevant proprietor is a lessee, or any superior lease, or (subject to paragraph 10(6)) any rights or remedies available to the lessor under such a lease;
- except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under paragraph 10(3)(c).
- (10) 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 EDMO (including an order quashing it).

Commencement Information

I12 Sch. 7 para. 12 wholly in force at 16.6.2006; Sch. 7 para. 12 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 12 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 12 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

Management scheme and accounts

- 13 (1) A final EDMO must contain a management scheme.
- (2) A “management scheme” is a scheme setting out how the local housing authority are to carry out their duties under section 137(1) to (3) as respects the dwelling.
- (3) The scheme is to contain a plan giving details of the way in which the authority propose to manage the dwelling, which must (in particular) include—
- (a) details of any works that the authority intend to carry out in connection with the dwelling;
 - (b) an estimate of the capital and other expenditure to be incurred by the authority in respect of the dwelling while the order is in force;
 - (c) the amount of rent which, in the opinion of the authority, the dwelling might reasonably be expected to fetch on the open market at the time the management scheme is made;
 - (d) the amount of rent or other payments that the authority will seek to obtain;
 - (e) the amount of any compensation that is payable to a third party by virtue of a decision of the authority under section 136(4) or 138(3) in respect of any interference in consequence of the final EDMO with the rights of that person;

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- (f) provision as to the payment of any such compensation and of any compensation payable to a dispossessed landlord or tenant by virtue of an order under paragraph 22(5);
 - (g) where the amount of rent payable to the authority in respect of the dwelling for a period is less than the amount of rent mentioned in paragraph (c) in respect of a period of the same length, provision as to the following—
 - (i) the deduction from the difference of relevant expenditure and any amounts of compensation payable to a third party or dispossessed landlord or tenant;
 - (ii) the payment of any remaining amount to the relevant proprietor;
 - (iii) the deduction from time to time of any remaining amount from any amount that the authority are entitled to recover from the proprietor under paragraph 23(5) or (6);
 - (h) provision as to the payment by the authority to the relevant proprietor from time to time of amounts of rent or other payments that remain after the deduction of—
 - (i) relevant expenditure, and
 - (ii) any amount of compensation payable to a third party or dispossessed landlord or tenant;
 - (i) provision as to the manner in which the authority are to pay to the relevant proprietor, on the termination of the final EDMO, the balance of any amounts of rent or other payments that remain after the deduction of relevant expenditure and any amounts of compensation payable to a third party or dispossessed landlord or tenant;
 - (j) provision as to the manner in which the authority are to pay, on the termination of the final EDMO, any outstanding amount of compensation payable to a third party or dispossessed landlord or tenant.
- (4) 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’s intentions as regards the payment to the relevant proprietor (where appropriate) of interest on amounts within sub-paragraph (3)(h) and (i);
 - (c) that paragraph 23(2) or, where the relevant proprietor consents, paragraph 23(3)(c) is not to apply in relation to an interim EDMO or (as the case may be) final EDMO that immediately preceded the final EDMO, and that instead the authority intend to use any balance such as is mentioned in that sub-paragraph to meet—
 - (i) relevant expenditure incurred during the currency of that final EDMO, and
 - (ii) any compensation that may become payable to a third party or a dispossessed landlord or tenant;
 - (d) that paragraph 23(4) to (6) are not to apply in relation to an interim EDMO or, where the relevant proprietor consents, a final EDMO that immediately preceded the final EDMO, and that instead the authority intend to use rent or other payments collected during the currency of that final EDMO to reimburse the authority in respect of any deficit such as is mentioned in paragraph 23(4);

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- (e) the authority's intentions as regards the recovery from the relevant proprietor, with or without interest, of any amount of relevant expenditure incurred under a previous interim EDMO or final EDMO that the authority are entitled to recover from the proprietor under paragraph 23(5) or (6).
- (5) The authority must—
- (a) keep full accounts of their income and expenditure in respect of the dwelling; and
- (b) afford to the relevant proprietor, and to any other person who has an estate or interest in the dwelling, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (6) In this paragraph—
- “dispossessed landlord or tenant” means a person who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order under paragraph 22;
- “relevant expenditure” means—
- (a) expenditure incurred by the authority with the consent of the relevant proprietor, or
- (b) any other expenditure reasonably incurred by the authority, in connection with performing their duties under section 135(1) to (3) or 137(1) to (3) in respect of the dwelling (including any reasonable administrative costs and any premiums paid for insurance of the premises);
- “rent or other payments” means rent or other payments collected or recovered, by virtue of this Chapter, from persons occupying or having the right to occupy the dwelling.
- (7) In any provision of this Chapter relating to varying, revoking or appealing against decisions relating to a final EDMO, any reference to such an order includes (where the context permits) a reference to the management scheme contained in it.

Commencement Information

I13 Sch. 7 para. 13 wholly in force at 16.6.2006; Sch. 7 para. 13 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 13 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 13 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

Application to residential property tribunal in respect of breach of management scheme

- 14 (1) An affected person may apply to a residential property tribunal for an order requiring the local housing authority to manage a dwelling in accordance with the management scheme contained in a final EDMO made in respect of the dwelling.
- (2) On such an application the tribunal may, if it considers it appropriate to do so, make an order—
- (a) requiring the authority to manage the dwelling in accordance with the management scheme, or

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- (b) revoking the final EDMO as from a date specified in the tribunal’s order.
- (3) An order under sub-paragraph (2) may—
- (a) set out the steps which the authority are to take to manage the dwelling in accordance with the management scheme,
 - (b) include provision varying the final EDMO, and
 - (c) require the payment of money to an affected person by way of damages.
- (4) In this paragraph “affected person” means—
- (a) the relevant proprietor, and
 - (b) any third party to whom compensation is payable by virtue of an order under section 134(4) or 138(2) or a decision of the authority under section 136(4) or 138(3) or who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order of the residential property tribunal under paragraph 22 and to whom compensation is payable by virtue of an order under sub-paragraph (5) of that paragraph.

Commencement Information

I14 Sch. 7 para. 14 wholly in force at 16.6.2006; Sch. 7 para. 14 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 14 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 14 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

Variation or revocation of final EDMOs

- 15 (1) The local housing authority may vary a final EDMO 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 sub-paragraph under paragraph 33 (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 paragraph 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 paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c)).

Commencement Information

I15 Sch. 7 para. 15 wholly in force at 16.6.2006; Sch. 7 para. 15 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 15 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 15 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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- 16 (1) The local housing authority may revoke a final EDMO in the following cases—
- (a) where the authority conclude that there are no steps which they could appropriately take as mentioned in section 137(4)(b) or that keeping the order in force is not necessary as mentioned in section 137(4)(c);
 - (b) where the authority are satisfied that—
 - (i) the dwelling will either become or continue to be occupied, despite the order being revoked, or
 - (ii) that the dwelling is to be sold;
 - (c) where a further final EDMO has been made by the authority in respect of the dwelling so as to replace the order;
 - (d) where the authority conclude that it would be appropriate to revoke the order in order to prevent or stop interference with the rights of a third party in consequence of the order; and
 - (e) where in any other circumstances the authority consider it appropriate to revoke the order.
- (2) But, in a case where the dwelling is occupied, the local housing authority may not revoke a final EDMO under sub-paragraph (1)(b), (d) or (e) unless the relevant proprietor consents.
- (3) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this sub-paragraph under paragraph 33 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal).
- (4) The power to revoke an order under this paragraph is exercisable by the authority either—
- (a) on an application made by a relevant person, or
 - (b) on the authority’s own initiative.
- (5) Where a relevant person applies to the authority for the revocation of an order under this paragraph, the authority may refuse to revoke the order unless the relevant proprietor (or some other person) agrees to pay to the authority any deficit such as is mentioned in paragraph 23(4).
- (6) In this paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c)).

Commencement Information

I16 Sch. 7 para. 16 wholly in force at 16.6.2006; Sch. 7 para. 16 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 16 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 16 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 17 (1) Part 2 of Schedule 6 applies in relation to the variation or revocation of a final EDMO as it applies in relation to the variation or revocation of a final management order.
- (2) But Part 2 of that Schedule so applies as if—
- (a) references to the right of appeal under Part 3 of the Schedule and to paragraph 29(2) were to the right of appeal under Part 4 of this Schedule and to paragraph 31(2) of this Schedule, and

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- (b) paragraph 23(4) defined “relevant person” as any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of this Schedule).

Commencement Information

- I17** Sch. 7 para. 17 wholly in force at 16.6.2006; Sch. 7 para. 17 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 17 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 17 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

PART 3

INTERIM AND FINAL EDMOS: GENERAL PROVISIONS (OTHER THAN PROVISIONS RELATING TO APPEALS)

Effect of EDMOs: persons occupying or having a right to occupy the dwelling

- 18 (1) This paragraph applies to existing and new occupiers of a dwelling in relation to which an interim EDMO or final EDMO is in force.
- (2) In this paragraph—
- “existing occupier” means a person other than the relevant proprietor who, at the time when the order comes into force—
- (a) has the right to occupy the dwelling, but
- (b) is not a new occupier within sub-paragraph (4);
- “new occupier” means a person who, at a time when the order is in force, is occupying the dwelling under a lease or licence granted under paragraph 2(3)(c) or 10(3)(c).
- (3) Paragraphs 2 and 10 do not affect the rights or liabilities of an existing occupier under a lease or licence (whether in writing or not) under which he has the right to occupy the dwelling at the commencement date.
- (4) Paragraph 10 does not affect the rights and liabilities of a new occupier who, in the case of a final EDMO, is occupying the dwelling at the time when the order comes into force.
- (5) The provisions mentioned in sub-paragraph (6) do not apply to a lease or agreement under which a new occupier has the right to occupy or is occupying the dwelling.
- (6) The provisions are—
- (a) the provisions which exclude local authority lettings from the Rent Acts, namely—
- (i) sections 14 to 16 of the Rent Act 1977 (c. 42), and
- (ii) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act; and

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- (b) section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act).
- (7) If, immediately before the coming into force of an interim EDMO or final EDMO, an existing occupier had the right to occupy the dwelling 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,
- nothing in this Chapter (except an order under paragraph 22 determining a lease or licence) 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.
- (8) In this paragraph “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 Chapter, the date when the first order came into force).

Commencement Information

I18 Sch. 7 para. 18 wholly in force at 16.6.2006; Sch. 7 para. 18 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 18 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 18 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Effect of EDMOs: agreements and legal proceedings

- 19 (1) An agreement or instrument within sub-paragraph (2) has effect, while an interim EDMO or final EDMO is in force, as if any rights or liabilities of the relevant proprietor under the agreement or instrument were instead rights or liabilities of the local housing authority.
- (2) An agreement or instrument is within this sub-paragraph if—
- (a) it is effective on the commencement date,
 - (b) one of the parties to it is the relevant proprietor of the dwelling,
 - (c) it relates to the dwelling, whether in connection with any management activities with respect to it, or otherwise,
 - (d) it is specified for the purposes of this sub-paragraph 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 sub-paragraph (1) is to apply to it.
- (3) An agreement or instrument is not within sub-paragraph (2) if—
- (a) it is a lease or licence within paragraph 2(6) or 10(6), or
 - (b) it relates to any disposition by the relevant proprietor which is not precluded by paragraph 4(7) or 12(7).
- (4) Proceedings in respect of any cause of action within sub-paragraph (5) may, while an interim EDMO or final EDMO is in force, be instituted or continued by or against the local housing authority instead of by or against the relevant proprietor.
- (5) A cause of action is within this sub-paragraph if—

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- (a) it is a cause of action (of any nature) which accrued to or against the relevant proprietor of the dwelling before the commencement date,
 - (b) it relates to the dwelling as mentioned in sub-paragraph (2)(c),
 - (c) it is specified for the purposes of this sub-paragraph in the order or falls within a description of causes of action so specified, and
 - (d) the authority serve a notice in writing on all interested parties stating that sub-paragraph (4) is to apply to it.
- (6) If, by virtue of this paragraph, 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 relevant proprietor of the dwelling, the relevant proprietor is liable to reimburse to the authority an amount equal to the amount of damages paid by them.
- (7) In this paragraph—
- “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 Chapter, the date when the first order came into force);
 - “management activities” includes repair, maintenance, improvement and insurance.

Commencement Information

I19 Sch. 7 para. 19 wholly in force at 16.6.2006; Sch. 7 para. 19 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 19 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 19 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Effect of EDMOs: furniture

- 20 (1) Sub-paragraph (2) applies where, on the date on which an interim EDMO or final EDMO comes into force, there is furniture owned by the relevant proprietor in the dwelling.
- (2) Subject to sub-paragraphs (3) and (4), the right to possession of the furniture against all persons vests in the local housing authority on that date and remains vested in the authority while the order is in force.
- (3) The right of the local housing authority under sub-paragraph (2) to possession of the furniture is subject to the rights of any person who, on the date on which the interim EDMO or final EDMO comes into force, has the right to possession of the dwelling.
- (4) Where—
- (a) the local housing authority have the right to possession of the furniture under sub-paragraph (2), and
 - (b) they have not granted a right to possession of the furniture to any other person,
- they must, on a request by the relevant proprietor, give up possession of the furniture to him.

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- (5) The local housing authority may renounce the right to possession of the furniture conferred by sub-paragraph (2) by serving notice on the relevant proprietor not less than two weeks before the renunciation is to have effect.
- (6) Where the local housing authority renounce the right to possession of the furniture under sub-paragraph (5), they must make appropriate arrangements for storage of the furniture at their own cost.
- (7) In this paragraph “furniture” includes fittings and other articles.

Commencement Information

I20 Sch. 7 para. 20 wholly in force at 16.6.2006; Sch. 7 para. 20 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 20 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 20 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

EDMOs: power to supply furniture

- 21
- (1) The local housing authority may supply the dwelling to which an interim EDMO or final EDMO relates with such furniture as they consider to be required.
 - (2) For the purposes of paragraph 5 or paragraph 13, any expenditure incurred by the authority under this paragraph constitutes expenditure incurred by the authority in connection with performing their duties under section 135(1) to (3) or 137(1) to (3).
 - (3) In this paragraph “furniture” includes fittings and other articles.

Commencement Information

I21 Sch. 7 para. 21 wholly in force at 16.6.2006; Sch. 7 para. 21 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 21 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 21 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Power of a residential property tribunal to determine certain leases and licences

- 22
- (1) A residential property tribunal may make an order determining a lease or licence to which this paragraph applies if—
 - (a) the case falls within sub-paragraph (3) or (4), and
 - (b) the tribunal are satisfied that the dwelling is not being occupied and that the local housing authority need to have the right to possession of the dwelling in order to secure that the dwelling becomes occupied.
 - (2) This paragraph applies to the following leases and licences of a dwelling—
 - (a) a lease of the dwelling in respect of which the relevant proprietor is the lessor,
 - (b) a sub-lease of any such lease, and
 - (c) a licence of the dwelling.
 - (3) A case falls within this sub-paragraph if—
 - (a) an interim or final EDMO is in force in respect of the dwelling, and

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- (b) the local housing authority have applied under paragraph 2(3)(d) or 10(3)(d) for an order determining the lease or licence.
- (4) A case falls within this sub-paragraph if—
 - (a) the local housing authority have applied to the residential property tribunal under section 133 for an order authorising them to make an interim EDMO in respect of the dwelling and an order determining the lease or licence, and
 - (b) the residential property tribunal has decided to authorise the authority to make an interim EDMO in respect of the dwelling.
- (5) An order under this paragraph may include provision requiring the local housing authority to pay such amount or amounts to one or more of the lessor, lessee, licensor or licensee by way of compensation in respect of the determination of the lease or licence as the tribunal determines.
- (6) Where—
 - (a) a final EDMO is in force in respect of a dwelling, and
 - (b) the tribunal makes an order requiring the local housing authority to pay an amount of compensation to a lessor, lessee, licensor or licensee in respect of the determination of a lease or licence of the dwelling,
 the tribunal must make an order varying the management scheme contained in the final EDMO so as to make provision as to the payment of that compensation.

Commencement Information

I22 Sch. 7 para. 22 wholly in force at 16.6.2006; Sch. 7 para. 22 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 22 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 22 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Termination of EDMOs: financial arrangements

- 23 (1) This paragraph applies where an interim EDMO or final EDMO ceases to have effect for any reason.
- (2) If, on the termination date for an interim EDMO, the total amount of rent or other payments collected or recovered as mentioned in paragraph 5(3) exceeds the total amount of—
- (a) the authority's relevant expenditure, and
 - (b) any amounts of compensation payable to third parties by virtue of orders under section 134(4) or 138(2) or decisions of the authority under section 136(4) or 138(3),
- the authority must, as soon as possible after the termination date, pay the balance to the relevant proprietor.
- (3) If, on the termination date for a final EDMO, any balance is payable to—
- (a) a third party,
 - (b) a dispossessed landlord or tenant, or
 - (c) the relevant proprietor,
- in accordance with the management scheme under paragraph 13, that amount must be paid to that person by the local housing authority in the manner provided by the scheme.

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: *Housing Act 2004, SCHEDULE 7 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Sub-paragraphs (5) and (6) apply where, on the termination date for an interim EDMO or final EDMO, the total amount of rent or other payments collected or recovered as mentioned in paragraph 5(3) is less than the total amount of the authority's relevant expenditure together with any such amounts of compensation as are mentioned in sub-paragraph (2)(b) above.
- (5) The authority may recover from the relevant proprietor—
- (a) the amount of any relevant expenditure (not exceeding the deficit mentioned in sub-paragraph (4)) which he has agreed in writing to pay either as a condition of revocation of the order or otherwise, and
 - (b) where the relevant proprietor is a tenant under a lease in respect of the dwelling, the amount of any outstanding service charges payable under the lease.
- (6) In the case of an interim EDMO ceasing to have effect, the authority may recover the deficit mentioned in sub-paragraph (4) from the relevant proprietor if, in their opinion, he unreasonably refused to consent to the creation of an interest or right as mentioned in paragraph 2(3)(c) while the order was in force.
- (7) The provisions of any of sub-paragraphs (2) to (6) do not, however, apply in relation to the order if—
- (a) the order is followed by a final EDMO, and
 - (b) the management scheme contained in that final EDMO provides for those sub-paragraphs not to apply in relation to the order (see paragraph 13(4)(c) and (d)).
- (8) Any sum recoverable by the authority under sub-paragraph (5) or (6) is, until recovered, a charge on the dwelling.
- (9) The charge takes effect on the termination date for the order as a legal charge which is a local land charge.
- (10) 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.
- (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) In this paragraph—
- “dispossessed landlord or tenant” means a person who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order under paragraph 22;
 - “relevant expenditure” has the same meaning as in paragraph 5 (in relation to an interim EDMO) or paragraph 13 (in relation to a final EDMO);
 - “service charge” has the meaning given by section 18 of the Landlord and Tenant Act 1985 (c. 70);
 - “the termination date” means the date on which the order ceases to have effect.

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

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Commencement Information

- I23** Sch. 7 para. 23 wholly in force at 16.6.2006; Sch. 7 para. 23 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 23 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 23 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Termination of EDMOs: leases, agreements and proceedings

- 24 (1) This paragraph applies where—
- (a) an interim EDMO or final EDMO ceases to have effect for any reason, and
 - (b) the order is not immediately followed by a further order under this Chapter.
- (2) As from the termination date, an agreement which (in accordance with paragraph 3 or 11) has effect as a lease or licence granted by the authority under paragraph 2 or 10 has effect with the substitution of the relevant proprietor for the authority.
- (3) If the relevant proprietor is a lessee, nothing in a superior lease imposes liability on him or any superior lessee in respect of anything done before the termination date in pursuance of the terms of an agreement to which sub-paragraph (2) applies.
- (4) If the condition in sub-paragraph (5) is met, any other agreement entered into by the authority in the performance of their duties under section 135(1) to (3) or 137(1) to (3) in respect of the dwelling has effect, as from the termination date, with the substitution of the relevant proprietor for the authority.
- (5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that sub-paragraph (4) applies to the agreement.
- (6) If the condition in sub-paragraph (7) is met—
- (a) any rights or liabilities that were rights or liabilities of the authority immediately before the termination date by virtue of any provision of this Chapter, or under any agreement to which sub-paragraph (4) applies, are rights or liabilities of the relevant proprietor 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 proprietor instead,
- as from the termination date.
- (7) The condition is that the authority serve a notice on all interested parties stating that sub-paragraph (6) applies to the rights or liabilities or (as the case may be) the proceedings.
- (8) If by virtue of this paragraph a relevant proprietor 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 proprietor an amount equal to the amount of the damages paid by him.
- (9) This paragraph applies to instruments as it applies to agreements.
- (10) In this paragraph—
 “agreement” includes arrangement;

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“the termination date” means the date on which the order ceases to have effect.

Commencement Information

I24 Sch. 7 para. 24 wholly in force at 16.6.2006; Sch. 7 para. 24 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 24 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 24 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

EDMOs: power of entry to carry out work

- 25 (1) The right mentioned in sub-paragraph (2) is exercisable by the local housing authority, or any person authorised in writing by them, at any time when an interim EDMO or final EDMO is in force.
- (2) That right is the right at all reasonable times to enter any part of the dwelling for the purpose of carrying out works, and is exercisable as against any person having an estate or interest in the dwelling.
- (3) If, after receiving reasonable notice of the intended action, any occupier of the dwelling prevents any officer, employee, agent or contractor of the local housing authority from carrying out work in the dwelling, a magistrates' court may order him to permit to be done on the premises anything which the authority consider to be necessary.
- (4) A person who fails to comply with an order of the court under sub-paragraph (3) commits an offence.
- (5) A person who commits an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I25 Sch. 7 para. 25 wholly in force at 16.6.2006; Sch. 7 para. 25 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 25 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 25 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

VALID FROM 06/04/2006

PART 4

APPEALS

Appeals: decisions relating to EDMOs

- 26 (1) A relevant person may appeal to a residential property tribunal against—
- a decision of the local housing authority to make a final EDMO,
 - the terms of a final EDMO (including the terms of the management scheme contained in it), or

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- (c) the terms of an interim EDMO on the grounds that they do not provide for one or both of the matters mentioned in paragraph 5(5)(a) and (b) (which relate to payments of surplus rent etc.).
- (2) Where an appeal is made under sub-paragraph (1)(c)—
 - (a) the appeal may be brought at any time while the order is in force (with the result that nothing in sub-paragraph (3) or paragraph 27 applies in relation to the appeal); and
 - (b) the powers of the residential property tribunal under paragraph 28 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.
- (3) If no appeal is brought under this paragraph in respect of a final EDMO within the time allowed by paragraph 27 for making such an appeal, the order is final and conclusive as to the matters which could have been raised on appeal.

Commencement Information

I26 Sch. 7 para. 26 wholly in force at 16.6.2006; Sch. 7 para. 26 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 26 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 26 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Appeals: time limits for appeals under paragraph 26

- 27
- (1) This paragraph applies in relation to an appeal under paragraph 26 in respect of a final EDMO.
 - (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) of Schedule 6 (as applied by section 136(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).

Commencement Information

I27 Sch. 7 para. 27 wholly in force at 16.6.2006; Sch. 7 para. 27 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 27 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 27 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Appeals: powers of residential property tribunal on appeal under paragraph 26

- 28
- (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 26 in respect of an interim EDMO or a final EDMO.
 - (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.

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

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- (3) The tribunal may—
- (a) in the case of an interim EDMO, vary the order as mentioned in paragraph 26(2)(b), or
 - (b) in the case of a final EDMO, confirm or vary the order or revoke it as from the date of the tribunal’s order.

Commencement Information

I28 Sch. 7 para. 28 wholly in force at 16.6.2006; Sch. 7 para. 28 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 28 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 28 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

“The operative time” for the purposes of paragraph 9(2)

- 29 (1) This paragraph defines “the operative time” for the purposes of paragraph 9(2).
- (2) If no appeal is made under paragraph 26 before the end of the period of 28 days mentioned in paragraph 27(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 26 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.

Commencement Information

I29 Sch. 7 para. 29 wholly in force at 16.6.2006; Sch. 7 para. 29 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 29 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 29 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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

- 30 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 EDMO or a final EDMO, or
 - (b) a refusal of a local housing authority to vary or revoke an interim EDMO or a final EDMO.

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Housing Act 2004, SCHEDULE 7 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I30 Sch. 7 para. 30 wholly in force at 16.6.2006; Sch. 7 para. 30 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 30 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 30 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Time limits for appeals under paragraph 30

- 31 (1) This paragraph applies in relation to an appeal under paragraph 30 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim EDMO or a final EDMO.
- (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 of Schedule 6 (as applied by paragraph 8 or 17 of this Schedule (as the case may be)) 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).

Commencement Information

I31 Sch. 7 para. 31 wholly in force at 16.6.2006; Sch. 7 para. 31 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 31 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 31 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Powers of residential property tribunal on appeal under paragraph 30

- 32 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 30 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim EDMO or final EDMO.
- (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, 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.

Commencement Information

I32 Sch. 7 para. 32 wholly in force at 16.6.2006; Sch. 7 para. 32 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 32 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 32 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

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“The operative time” for the purposes of paragraphs 6, 7, 15 and 16

- 33 (1) This paragraph defines “the operative time” for the purposes of—
- (a) paragraph 6(2) or 7(3) (variation or revocation of interim EDMO), or
 - (b) paragraph 15(2) or 16(3) (variation or revocation of final EDMO).
- (2) If no appeal is made under paragraph 30 before the end of the period of 28 days mentioned in paragraph 31(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 30 before the end of 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.

Commencement Information

I33 Sch. 7 para. 33 wholly in force at 16.6.2006; Sch. 7 para. 33 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 33 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 33 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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

- 34 (1) This paragraph applies where a local housing authority have made a decision under section 136(4) or 138(3) as to whether compensation should be paid to a third party in respect of any interference with his rights in consequence of a final EDMO.
- (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.

Commencement Information

I34 Sch. 7 para. 34 wholly in force at 16.6.2006; Sch. 7 para. 34 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 34 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 34 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Housing Act 2004, SCHEDULE 7 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Time limits for appeals under paragraph 34

- 35 (1) This paragraph applies in relation to an appeal under paragraph 34 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—
- (a) where the decision is made before the final EDMO is made, within the period of 28 days beginning with the date specified in the notice under paragraph 7(5) of Schedule 6 (as applied by section 136(5)) as the date on which the order was made, or
 - (b) in any other case, within the period of 28 days beginning with the date the authority notifies the third party under section 138(4).
- (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).

Commencement Information

I35 Sch. 7 para. 35 wholly in force at 16.6.2006; Sch. 7 para. 35 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 35 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 35 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Powers of residential property tribunal on appeal under paragraph 34

- 36 (1) This paragraph applies in relation to an appeal under paragraph 34 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 the decision of the authority, it must make an order varying the management scheme contained in the final EDMO accordingly.

Commencement Information

I36 Sch. 7 para. 36 wholly in force at 16.6.2006; Sch. 7 para. 36 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 36 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 7 para. 36 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Meaning of “relevant person” for the purposes of this Part

- 37 In this Part of this Schedule “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c)).

Status: Point in time view as at 18/11/2004. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Housing Act 2004, SCCHEDULE 7 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

- I37** Sch. 7 para. 37 wholly in force at 16.6.2006; Sch. 7 para. 37 not in force at Royal Assent see s. 270(4)(5); Sch. 7 para. 37 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); Sch. 7 para. 37 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

Status:

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Changes to legislation:

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