



Housing Act 2004

2004 CHAPTER 34

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

CHAPTER 1

INTERIM AND FINAL MANAGEMENT ORDERS

Interim and final management orders: other general provisions

124 Effect of management orders: occupiers

- (1) This section applies to existing and new occupiers of a house in relation to which an interim or final management order is in force.
- (2) In this section—
 - “existing occupier” means a person who, at the time when the order comes into force, either—
 - (a) (in the case of an HMO or a Part 3 house) is occupying part of the house and does not have an estate or interest in the whole of the house, or
 - (b) (in the case of a Part 3 house) is occupying the whole of the house, but is not a new occupier within subsection (6);
 - “new occupier” means a person who, at a time when the order is in force, is occupying the whole or part of the house under a lease or licence granted under section 107(3)(c) or 116(3)(c).
- (3) Sections 107 and 116 do not affect the rights or liabilities of an existing occupier under a lease or licence (whether in writing or not) under which he is occupying the whole or part of the house at the commencement date.
- (4) Where the lessor or licensor under such a lease or licence—

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- (a) has an estate or interest in the house, and
 - (b) is not an existing occupier,
- 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.
- (5) 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 premises.
- (6) Section 116 does not affect the rights or liabilities of a new occupier who, in the case of a final management order, is occupying the whole or part of the house at the time when the order comes into force.
- (7) The provisions which exclude local authority lettings from the Rent Acts, namely—
- (a) sections 14 to 16 of the Rent Act 1977 (c. 42), and
 - (b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act,
- do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.
- (8) 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) do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.
- (9) 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).
- (10) If, immediately before the coming into force of an interim or final management order, an existing occupier was occupying the whole or part of the house under—
- (a) a protected or statutory tenancy within the meaning of the Rent Act 1977 (c. 42),
 - (b) a protected or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976 (c. 80), or
 - (c) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988 (c. 50),
- nothing in this Chapter 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.
- (11) In this section “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).

125 Effect of management orders: agreements and legal proceedings

- (1) An agreement or instrument within subsection (2) has effect, while an interim or final management order is in force, as if any rights or liabilities of the immediate landlord under the agreement or instrument were instead rights or liabilities of the local housing authority.

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- (2) An agreement or instrument is within this subsection if—
- (a) it is effective on the commencement date,
 - (b) one of the parties to it is a person who is the immediate landlord of the house or a part of the house (“the relevant premises”),
 - (c) it relates to the house, whether in connection with—
 - (i) any management activities with respect to the relevant premises, or
 - (ii) the provision of any services or facilities for persons occupying those premises,or otherwise,
 - (d) it is specified for the purposes of this subsection 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 subsection (1) is to apply to it.
- (3) An agreement or instrument is not within subsection (2) if—
- (a) it is a lease within section 107(5) or 116(5), or
 - (b) it relates to any disposition by the immediate landlord which is not precluded by section 109(2) or 118(2), or
 - (c) it is within section 124(4).
- (4) Proceedings in respect of any cause of action within subsection (5) may, while an interim or final management order is in force, be instituted or continued by or against the local housing authority instead of by or against the immediate landlord.
- (5) A cause of action is within this subsection if—
- (a) it is a cause of action (of any nature) which accrued to or against the immediate landlord of the house or a part of the house before the commencement date,
 - (b) it relates to the house as mentioned in subsection (2)(c),
 - (c) it is specified for the purposes of this subsection 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 subsection (4) is to apply to it.
- (6) If, by virtue of this section, 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 immediate landlord of the house or a part of it, the immediate landlord is liable to reimburse to the authority an amount equal to the amount of the damages paid by them.
- (7) In this section—
- “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.

126 Effect of management orders: furniture

- (1) Subsection (2) applies where, on the date on which an interim or final management order comes into force, there is furniture in the house which a person occupying the

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house has the right to use in consideration of periodical payments to a person who is an immediate landlord of the house or a part of it (whether the payments are included in the rent payable by the occupier or not).

- (2) The right to possession of the furniture against all persons other than the occupier vests in the local housing authority on that date and remains vested in the authority while the order is in force.
- (3) The local housing authority may renounce the right to possession of the furniture conferred by subsection (2) if—
 - (a) an application in writing has been made to them for the purpose by the person owning the furniture, and
 - (b) they renounce the right by notice in writing served on that person not less than two weeks before the notice takes effect.
- (4) If the authority's right to possession of furniture conferred by subsection (2) is a right exercisable against more than one person interested in the furniture, any of those persons may apply to a residential property tribunal for an adjustment of their respective rights and liabilities as regards the furniture.
- (5) On such an application the tribunal may make an order for such an adjustment of rights and liabilities, either unconditionally or subject to such terms and conditions, as it considers appropriate.
- (6) The terms and conditions may, in particular, include terms and conditions about the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise.
- (7) In this section "furniture" includes fittings and other articles.

127 Management orders: power to supply furniture

- (1) The local housing authority may supply the house to which an interim or final management order relates with such furniture as they consider to be required.
- (2) For the purposes of section 110 or a management scheme under section 119, any expenditure incurred by the authority under this section constitutes expenditure incurred by the authority in connection with performing their duty under section 106(3) or 115(2).
- (3) In this section "furniture" includes fittings and other articles.

128 Compensation payable to third parties

- (1) If a third party requests them to do so at any time, the local housing authority must consider whether an amount by way of compensation should be paid to him in respect of any interference with his rights in consequence of an interim or final management order.
- (2) The authority must notify the third party of their decision as soon as practicable.
- (3) Where the local housing authority decide under subsection (1) that compensation ought to be paid to a third party in consequence of a final management order, they must vary the management scheme contained in the order so as to specify the amount of the compensation to be paid and to make provision as to its payment.

129 Termination of management orders: financial arrangements

- (1) This section applies where an interim or final management order ceases to have effect for any reason.
- (2) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) exceeds the total amount of—
 - (a) the local housing authority’s relevant expenditure, and
 - (b) any amounts of compensation payable to third parties by virtue of decisions of the authority under section 128,the authority must, as soon as practicable after the termination date, pay the balance to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate.
- (3) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) is less than the total amount of—
 - (a) the authority’s relevant expenditure, and
 - (b) any amounts of compensation payable as mentioned in subsection (2)(b),the difference is recoverable by the authority from such relevant landlord, or such relevant landlords in such proportions, as they consider appropriate.
- (4) If, on the termination date for a final management order, any amount is payable to—
 - (a) a third party, or
 - (b) any relevant landlord in accordance with the management scheme under section 119,that amount must be paid to that person by the local housing authority in the manner provided by the scheme.
- (5) If, on the termination date for a final management order, any amount is payable to the local housing authority in accordance with the management scheme, that amount is recoverable by the local housing authority—
 - (a) from such relevant landlord, or
 - (b) from such relevant landlords in such proportions,as is provided by the scheme.
- (6) The provisions of any of subsections (2) to (5) do not, however, apply in relation to the order if—
 - (a) the order is followed by a final management order, and
 - (b) the management scheme contained in that final management order provides for that subsection not to apply in relation to the order (see section 119(5)(c) and (d)).
- (7) Any sum recoverable by the authority under subsection (3) or (5) is, until recovered, a charge on the house.
- (8) The charge takes effect on the termination date for the order as a legal charge which is a local land charge.
- (9) 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

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mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

- (10) 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.
- (11) If the order is to be followed by a licence granted under Part 2 or 3 in respect of the house, the conditions contained in the licence may include a condition requiring the licence holder—
- (a) to repay to the authority any amount recoverable by them under subsection (3) or (5), and
 - (b) to do so in such instalments as are specified in the licence.
- (12) In this section—
- “relevant expenditure” has the same meaning as in section 110;
- “relevant landlord” means a person who was the immediate landlord of the house or part of it immediately before the termination date or his successor in title for the time being;
- “rent or other payments” means rents or other payments payable under leases or licences or in respect of furniture within section 126(1);
- “the termination date” means the date on which the order ceases to have effect.

130 Termination of management orders: leases, agreements and proceedings

- (1) This section applies where—
- (a) an interim or final management order 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—
- (a) a lease or licence in which the local housing authority was substituted for another party by virtue of section 124(4) has effect with the substitution of the original party, or his successor in title, for the authority; and
 - (b) an agreement which (in accordance with section 108 or 117) has effect as a lease or licence granted by the authority under section 107 or 116 has effect with the substitution of the relevant landlord for the authority.
- (3) If the relevant landlord 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 subsection (2)(b) applies.
- (4) If the condition in subsection (5) is met, any other agreement entered into by the authority in the performance of their duties under section 106(1) to (3) or 115(2) in respect of the house has effect, as from the termination date, with the substitution of the relevant landlord for the authority.
- (5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that subsection (4) applies to the agreement.
- (6) If the condition in subsection (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

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Chapter or under any agreement to which subsection (4) applies are rights or liabilities of the relevant landlord 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 landlord instead,

as from the termination date.

- (7) The condition is that the authority serve a notice on all interested parties stating that subsection (6) applies to the rights or liabilities or (as the case may be) the proceedings.
- (8) If by virtue of this section a relevant landlord 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 landlord an amount equal to the amount of the damages paid by him.
- (9) Where two or more persons are relevant landlords in relation to different parts of the house, any reference in this section to “the relevant landlord” is to be taken to refer to such one or more of them as is determined by agreement between them or (in default of agreement) by a residential property tribunal on an application made by any of them.
- (10) This section applies to instruments as it applies to agreements.
- (11) In this section—
“agreement” includes arrangement;
“relevant landlord” means a person who was the immediate landlord of the house immediately before the termination date or his successor in title for the time being;
“the termination date” means the date on which the order ceases to have effect.

131 Management orders: power of entry to carry out work

- (1) The right mentioned in subsection (2) is exercisable by the local housing authority, or any person authorised in writing by them, at any time when an interim or final management order is in force.
- (2) That right is the right at all reasonable times to enter any part of the house for the purpose of carrying out works, and is exercisable as against any person having an estate or interest in the house.
- (3) Where part of a house is excluded from the provisions of an interim or final management order under section 102(8) or 113(7), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of carrying out works in the part of the house which is subject to the order.
- (4) If, after receiving reasonable notice of the intended action, any occupier of the whole or part of the house prevents any officer, employee, agent or contractor of the local housing authority from carrying out work in the house, a magistrates' court may order him to permit to be done on the premises anything which the authority consider to be necessary.
- (5) A person who fails to comply with an order of the court under subsection (4) commits an offence.

- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.