

SCHEDULES

SCHEDULE 7

FURTHER PROVISIONS REGARDING EMPTY DWELLING MANAGEMENT ORDERS

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
- (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—

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- (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).

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—
- (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.

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.

(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.

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.

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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
 - (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.

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.

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- (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.
- (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;

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“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.

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

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.