

*Status: Point in time view as at 14/07/2005.*

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## SCHEDULES

VALID FROM 06/04/2006

### SCHEDULE 1

Section 18

PROCEDURE AND APPEALS RELATING TO IMPROVEMENT NOTICES  
.....

VALID FROM 06/04/2006

### SCHEDULE 2

Section 27

PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS  
.....

VALID FROM 06/04/2006

### SCHEDULE 3

Section 31

IMPROVEMENT NOTICES: ENFORCEMENT ACTION BY LOCAL HOUSING AUTHORITIES  
.....

### SCHEDULE 4

Sections 67 and 90

LICENCES UNDER PARTS 2 AND 3: MANDATORY CONDITIONS

VALID FROM 06/04/2006

*Conditions to be included in licences under Part 2 or 3*

- 1
- (1) A licence under Part 2 or 3 must include the following conditions.
  - (2) Conditions requiring the licence holder, if gas is supplied to the house, to produce to the local housing authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months.

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- (3) Conditions requiring the licence holder—
- (a) to keep electrical appliances and furniture made available by him in the house in a safe condition;
  - (b) to supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture.
- (4) Conditions requiring the licence holder—
- (a) to ensure that smoke alarms are installed in the house and to keep them in proper working order;
  - (b) to supply the authority, on demand, with a declaration by him as to the condition and positioning of such alarms.
- (5) Conditions requiring the licence holder to supply to the occupiers of the house a written statement of the terms on which they occupy it.

**Commencement Information**

**I51** Sch. 4 para. 1 wholly in force at 16.6.2006; Sch. 4 para. 1 not in force at Royal Assent see s. 270(4)(5); Sch. 4 para. 1 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); Sch. 4 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

*Additional conditions to be included in licences under Part 3*

- 2 A licence under Part 3 must include conditions requiring the licence holder to demand references from persons who wish to occupy the house.

**Commencement Information**

**I52** Sch. 4 para. 2 wholly in force at 16.6.2006; Sch. 4 para. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 4 para. 2 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); Sch. 4 para. 2 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

*Power to prescribe conditions*

- 3 The appropriate national authority may by regulations amend this Schedule so as to alter (by the addition or removal of conditions) the conditions which must be included—
- (a) in a licence under Part 2 or 3, or
  - (b) only in a licence under one of those Parts.

**Commencement Information**

**I53** Sch. 4 para. 3 wholly in force at 16.6.2006; Sch. 4 para. 3 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 4 para. 3 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); Sch. 4 para. 3 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

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*Interpretation*

4 In this Schedule “the house” means the HMO or Part 3 house in respect of which the licence is granted.

**Commencement Information**

**I54** Sch. 4 para. 4 wholly in force at 16.6.2006; Sch. 4 para. 4 not in force at Royal Assent see s. 270(4)(5); Sch. 4 para. 4 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 4 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

SCHEDULE 5

Sections 71 and 94

LICENCES UNDER PARTS 2 AND 3: PROCEDURE AND APPEALS

VALID FROM 06/04/2006

SCHEDULE 6

Section 123

MANAGEMENT ORDERS: PROCEDURE AND APPEALS

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## 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.

#### **Commencement Information**

**1126** 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.)

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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
  - (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),

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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 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

**I127** 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
  - (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);

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

#### Commencement Information

**I128** 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
  - (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 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

**1129** 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).
- (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—

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- (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

**I130** 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.)

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.

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- (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

**I131** 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).
- (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

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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

**I132** 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

**I133** 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.
- (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).

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- (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

**1134** 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.
- (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—

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- (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),
- 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.

*Status: Point in time view as at 14/07/2005.*

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- (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

**I135** 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);
- “legal lease” means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

*Status: Point in time view as at 14/07/2005.*

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### Commencement Information

**1136** 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—
    - (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.

*Status: Point in time view as at 14/07/2005.*

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- (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

**1137** 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;
  - (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);

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- (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);
  - (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).

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- (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

**I138** 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
  - (b) revoking the final EDMO as from a date specified in the tribunal’s order.
- (3) An order under sub-paragraph (2) may—

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- (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

**I139** 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

**I140** 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.)

- 16 (1) The local housing authority may revoke a final EDMO in the following cases—

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- (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

**I141** 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

**I142** 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

**I143** 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**

**1144** 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.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (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

**I145** 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

**I146** 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

**1147** 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 14/07/2005.*

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- (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 14/07/2005.*

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### Commencement Information

**1148** 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;

*Status: Point in time view as at 14/07/2005.*

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

**Commencement Information**

**I149** 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**

**I150** 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) a decision of the local housing authority to make a final EDMO,
  - (b) 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

**I151** 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

**I152** 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 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (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**

**I153** 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**

**I154** 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 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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

**I155** 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

**I156** 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

**I157** 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 14/07/2005.*

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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**

**I158** 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**

**I159** 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 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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**

**I160** 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**

**I161** 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 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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

**I162** 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.)

## SCHEDULE 8

Section 168

### PENALTY CHARGE NOTICES UNDER SECTION 168

VALID FROM 01/08/2007

- 1 A penalty charge notice given to a person under section 168 by an officer of an enforcement authority must—
- (a) state the officer's belief that that person has committed a breach of duty;
  - (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty;
  - (c) require that person, within a period specified in the notice—
    - (i) to pay a penalty charge specified in the notice; or
    - (ii) to give notice to the enforcement authority that he wishes the authority to review the notice;
  - (d) state the effect of paragraph 8;
  - (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made; and
  - (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).

#### Commencement Information

**I163** Sch. 8 para. 1 wholly in force at 6.4.2008; Sch. 8 para. 1 not in force at Royal Assent see s. 270(6); Sch. 8 para. 1 in force for certain purposes at 1.8.2007 by S.I. 2007/1668, arts. 2-4; Sch. 8 para. 1 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, arts. 2-4; Sch. 8 para. 1 in force for certain purposes at 14.12.2007 by S.I. 2007/3308, arts. 2-4; Sch. 8 para. 1 in force in so far as not already in force at 6.4.2008 by S.I. 2008/898, art. 2(1)

- 2 The penalty charge specified in the notice shall be of such amount (not exceeding £500) as may be prescribed for the time being by regulations made by the Secretary of State.

#### Commencement Information

**I164** Sch. 8 para. 2 wholly in force at 6.4.2008; Sch. 8 para. 2 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 8 para. 2 in force for certain purposes at 1.8.2007 by S.I. 2007/1668, arts. 2-4; Sch. 8 para. 2 in force for certain purposes at 10.9.2007 by S.I. 2007/2471, arts. 2-4; Sch. 8 para. 2 in

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force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 2 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 3
- (1) The period specified under paragraph 1(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.
  - (2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if they consider it appropriate to do so.

#### Commencement Information

**1165** Sch. 8 para. 3 wholly in force at 6.4.2008; Sch. 8 para. 3 not in force at Royal Assent see s. 270(6); Sch. 8 para. 3 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 3 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 3 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 3 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 4
- The enforcement authority may, if they consider that the penalty charge notice ought not to have been given, give the recipient a notice withdrawing the penalty charge notice.

#### Commencement Information

**1166** Sch. 8 para. 4 wholly in force at 6.4.2008; Sch. 8 para. 4 not in force at Royal Assent see s. 270(6); Sch. 8 para. 4 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 4 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 4 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 4 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 5
- (1) If, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority shall—
    - (a) consider any representations made by the recipient and all other circumstances of the case;
    - (b) decide whether to confirm or withdraw the notice; and
    - (c) give notice of their decision to the recipient.
  - (2) A notice under sub-paragraph (1)(c) confirming the penalty charge notice must also state the effect of paragraphs 6(1) to (3) and 8(1) and (3).
  - (3) If the authority are not satisfied—

*Status: Point in time view as at 14/07/2005.*

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- (a) that the recipient committed the breach of duty specified in the notice;
  - (b) that the notice was given within the time allowed by section 168(2) and complies with the other requirements imposed by or under this Schedule; and
  - (c) that in the circumstances of the case it was appropriate for a penalty charge notice to be given to the recipient,
- they shall withdraw the penalty charge notice.

#### Commencement Information

**I167** Sch. 8 para. 5 wholly in force at 6.4.2008; Sch. 8 para. 5 not in force at Royal Assent see s. 270(6); Sch. 8 para. 5 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 5 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 5 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 5 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 6
- (1) If after a review the penalty charge notice is confirmed by the enforcement authority, the recipient may, within the period of 28 days beginning with the day after that on which the notice under paragraph 5(1)(c) is given, appeal to the county court against the penalty charge notice.
  - (2) The county court may extend the period for appealing against the notice.
  - (3) Such an appeal must be on one (or more) of the following grounds—
    - (a) that the recipient did not commit the breach of duty specified in the penalty charge notice;
    - (b) that the notice was not given within the time allowed by section 168(2) or does not comply with any other requirement imposed by or under this Schedule; or
    - (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.
  - (4) An appeal against a penalty charge notice shall be by way of a rehearing; and the court shall either uphold the notice or quash it.

#### Commencement Information

**I168** Sch. 8 para. 6 wholly in force at 6.4.2008; Sch. 8 para. 6 not in force at Royal Assent see s. 270(6); Sch. 8 para. 6 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 6 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 6 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 6 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

*Status: Point in time view as at 14/07/2005.*

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VALID FROM 01/08/2007

- 7 If the penalty charge notice is withdrawn or quashed, the authority shall repay any amount previously paid as a penalty charge in pursuance of the notice.

#### Commencement Information

**I169** Sch. 8 para. 7 wholly in force at 6.4.2008; Sch. 8 para. 7 not in force at Royal Assent see s. 270(6); Sch. 8 para. 7 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 7 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 7 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 7 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 8 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the authority unless—
- (a) the notice has been withdrawn or quashed, or
  - (b) the charge has been paid.
- (2) Proceedings for the recovery of the penalty charge may not be commenced before the end of the period mentioned in paragraph 5(1).
- (3) And if within that period the recipient of the penalty charge notice gives notice to the authority that he wishes the authority to review the penalty charge notice, such proceedings may not be commenced—
- (a) before the end of the period mentioned in paragraph 6(1), and
  - (b) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is withdrawn or determined.

#### Commencement Information

**I170** Sch. 8 para. 8 wholly in force at 6.4.2008; Sch. 8 para. 8 not in force at Royal Assent see s. 270(6); Sch. 8 para. 8 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 8 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 8 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 8 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 9 In proceedings for the recovery of the penalty charge, a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority; and
  - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate;
- is evidence of the facts stated.

*Status: Point in time view as at 14/07/2005.*

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#### Commencement Information

**I171** Sch. 8 para. 9 wholly in force at 6.4.2008; Sch. 8 para. 9 not in force at Royal Assent see s. 270(6); Sch. 8 para. 9 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 9 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 9 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 9 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

VALID FROM 01/08/2007

- 10 (1) A penalty charge notice and any other notice mentioned in this Schedule may be given by post.
- (2) Any such notice may be given—
- (a) in the case of a body corporate, to the secretary or clerk of that body; and
  - (b) in the case of a partnership, to any partner or to a person having control or management of the partnership business.

#### Commencement Information

**I172** Sch. 8 para. 10 wholly in force at 6.4.2008; Sch. 8 para. 10 not in force at Royal Assent see s. 270(6); Sch. 8 para. 10 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 10 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 10 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 10 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

- 11 The Secretary of State may by regulations make provision supplementary or incidental to the preceding provisions of this Part, including in particular provision prescribing—
- (a) the form of penalty charge notices or any other notice mentioned in this Schedule;
  - (b) circumstances in which penalty charge notices may not be given;
  - (c) the method or methods by which penalty charges may be paid.

#### Commencement Information

**I173** Sch. 8 para. 11 wholly in force at 6.4.2008; Sch. 8 para. 11 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 8 para. 11 in force for certain purposes at 1.8.2007 by [S. I. 2007/1668](#), [arts. 2-4](#); Sch. 8 para. 11 in force for certain purposes at 10.9.2007 by [S.I. 2007/2471](#), [arts. 2-4](#); Sch. 8 para. 11 in force for certain purposes at 14.12.2007 by [S.I. 2007/3308](#), [arts. 2-4](#); Sch. 8 para. 11 in force in so far as not already in force at 6.4.2008 by [S.I. 2008/898](#), [art. 2\(1\)](#)

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## SCHEDULE 9

Section 183

### NEW SCHEDULE 5A TO THE HOUSING ACT 1985: INITIAL DEMOLITION NOTICES

#### “SCHEDULE 5A

Section 138A

#### INITIAL DEMOLITION NOTICES

##### *Initial demolition notices*

- 1 (1) For the purposes of this Schedule an “initial demolition notice” is a notice served on a secure tenant—
  - (a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
  - (b) setting out the reasons why the landlord intends to demolish the relevant premises,
  - (c) specifying the period within which he intends to demolish those premises, and
  - (d) stating that, while the notice remains in force, he will not be under any obligation to make such a grant as is mentioned in section 138(1) in respect of any claim made by the tenant to exercise the right to buy in respect of the dwelling-house.
- (2) An initial demolition notice must also state—
  - (a) that the notice does not prevent—
    - (i) the making by the tenant of any such claim, or
    - (ii) the taking of steps under this Part in connection with any such claim up to the point where section 138(1) would otherwise operate in relation to the claim, or
    - (iii) the operation of that provision in most circumstances where the notice ceases to be in force, but
  - (b) that, if the landlord subsequently serves a final demolition notice in respect of the dwelling-house, the right to buy will not arise in respect of it while that notice is in force and any existing claim will cease to be effective.
- (3) If, at the time when an initial demolition notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall—
  - (a) state that section 138C confers a right to compensation in respect of certain expenditure, and
  - (b) give details of that right to compensation and of how it may be exercised.
- (4) The period specified in accordance with sub-paragraph (1)(c) must not—
  - (a) allow the landlord more than what is, in the circumstances, a reasonable period to carry out the proposed demolition of the relevant premises (whether on their own or as part of a scheme involving the demolition of other premises); or
  - (b) in any case expire more than five years after the date of service of the notice on the tenant.

##### *Period of validity of initial demolition notice*

- 2 (1) For the purposes of this Schedule an initial demolition notice—

*Status: Point in time view as at 14/07/2005.*

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- (a) comes into force in respect of the dwelling-house concerned on the date of service of the notice on the tenant, and
  - (b) ceases to be so in force at the end of the period specified in accordance with paragraph 1(1)(c),
- but this is subject to compliance with the conditions mentioned in sub-paragraph (2) (in a case to which they apply) and to paragraph 3.
- (2) The conditions in sub-paragraphs (6) and (7) of paragraph 13 of Schedule 5 (publicity for final demolition notices) shall apply in relation to an initial demolition notice as they apply in relation to a final demolition notice.
- (3) The notice mentioned in paragraph 13(7) (as it applies in accordance with sub-paragraph (2) above) must contain the following information—
- (a) sufficient information to enable identification of the premises that the landlord intends to demolish,
  - (b) the reasons why the landlord intends to demolish those premises,
  - (c) the period within which the landlord intends to demolish those premises,
  - (d) the date when any initial demolition notice or notices relating to those premises will cease to be in force, unless revoked or otherwise terminated under or by virtue of paragraph 3 below,
  - (e) that, during the period of validity of any such notice or notices, the landlord will not be under any obligation to make such a grant as is mentioned in section 138(1) in respect of any claim to exercise the right to buy in respect of any dwelling-house contained in those premises,
  - (f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.

*Revocation or termination of initial demolition notices*

- 3 (1) Paragraph 15(4) to (7) of Schedule 5 (revocation notices) shall apply in relation to an initial demolition notice as they apply in relation to a final demolition notice.
- (2) If a compulsory purchase order has been made for the purpose of enabling the landlord to demolish the dwelling-house in respect of which he has served an initial demolition notice (whether or not it would enable him to demolish any other premises as well) and—
- (a) a relevant decision within sub-paragraph (3)(a) becomes effective while the notice is in force, or
  - (b) a relevant decision within sub-paragraph (3)(b) becomes final while the notice is in force,
- the notice ceases to be in force as from the date when the decision becomes effective or final.
- (3) A “relevant decision” is—
- (a) a decision under Part 2 of the Acquisition of Land Act 1981 to confirm the order with modifications, or not to confirm the whole or part of the order, or
  - (b) a decision of the High Court to quash the whole or part of the order under section 24 of that Act,
- where the effect of the decision is that the landlord will not be able, by virtue of that order, to carry out the demolition of the dwelling-house.
- (4) A relevant decision within sub-paragraph (3)(a) becomes effective—

*Status: Point in time view as at 14/07/2005.*

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- (a) at the end of the period of 16 weeks beginning with the date of the decision, if no application for judicial review is made in respect of the decision within that period, or
  - (b) if such an application is so made, at the time when—
    - (i) a decision on the application which upholds the relevant decision becomes final, or
    - (ii) the application is abandoned or otherwise ceases to have effect.
- (5) A relevant decision within sub-paragraph (3)(b), or a decision within sub-paragraph (4)(b), becomes final—
- (a) if not appealed against, at the end of the period for bringing an appeal, or
  - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (6) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
  - (b) if it is abandoned or otherwise ceases to have effect.
- (7) Where an initial demolition notice ceases to be in force under sub-paragraph (2), the landlord must, as soon as is reasonably practicable, serve a notice on the tenant which informs him—
- (a) that the notice has ceased to be in force as from the date in question, and
  - (b) of the reason why it has ceased to be in force.
- (8) If, while an initial demolition notice is in force in respect of a dwelling-house, a final demolition notice comes into force under paragraph 13 of Schedule 5 in respect of that dwelling-house, the initial demolition notice ceases to be in force as from the date when the final demolition notice comes into force.
- (9) In such a case the final demolition notice must state that it is replacing the initial demolition notice.

*Restriction on serving further demolition notices*

- 4 (1) This paragraph applies where an initial demolition notice (“the relevant notice”) has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished.
- (2) No further initial demolition notice may be served in respect of the dwelling-house during the period of 5 years following the time when the relevant notice ceases to be in force, unless—
- (a) it is served with the consent of the Secretary of State, and
  - (b) it states that it is so served.
- (3) Subject to sub-paragraph (4), no final demolition notice may be served in respect of the dwelling-house during the period of 5 years following the time when the relevant notice ceases to be in force, unless—
- (a) it is served with the consent of the Secretary of State, and
  - (b) it states that it is so served.
- (4) Sub-paragraph (3) does not apply to a final demolition notice which is served at a time when an initial demolition notice served in accordance with sub-paragraph (2) is in force.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (5) The Secretary of State’s consent under sub-paragraph (2) or (3) may be given subject to compliance with such conditions as he may specify.

*Service of notices*

- 5 Paragraph 16 of Schedule 13 (service of notices) applies in relation to notices under this Schedule as it applies in relation to notices under paragraph 13 or 15 of that Schedule.

*Interpretation*

- 6 (1) In this Schedule any reference to the landlord, in the context of a reference to the demolition or intended demolition of any premises, includes a reference to a superior landlord.
- (2) In this Schedule—
- “final demolition notice” means a final demolition notice served under paragraph 13 of Schedule 5;
- “premises” means premises of any description;
- “scheme” includes arrangements of any description.”

SCHEDULE 10

Section 212

PROVISIONS RELATING TO TENANCY DEPOSIT SCHEMES

VALID FROM 06/04/2007

*Schemes to be custodial schemes or insurance schemes*

- 1 (1) A tenancy deposit scheme must be either—
- (a) a custodial scheme, or
  - (b) an insurance scheme.
- (2) A “custodial scheme” is a scheme under which—
- (a) tenancy deposits in connection with shorthold tenancies are paid to the landlords under the tenancies,
  - (b) amounts representing the deposits are then paid by the landlords into a designated account held by the scheme administrator, and
  - (c) those amounts are kept by the scheme administrator in that account until such time as, in accordance with the scheme, they fall to be paid (wholly or in part) to the landlords or tenants under the tenancies.
- (3) An “insurance scheme” is a scheme under which—
- (a) tenancy deposits in connection with shorthold tenancies are paid to the landlords under the tenancies,
  - (b) such deposits are retained by the landlords on the basis that, at the end of the tenancies—
    - (i) such amounts in respect of the deposits as are agreed between the tenants and the landlords will be repaid to the tenants, and

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- (ii) such amounts as the tenants request to be repaid to them and which are not so repaid will, in accordance with directions given by the scheme administrator, be paid into a designated account held by the scheme administrator,
- (c) amounts paid into that account are kept by the scheme administrator in the account until such time as, in accordance with the scheme, they fall to be paid (wholly or in part) to the landlords or tenants under the tenancies,
- (d) landlords undertake to reimburse the scheme administrator, in accordance with directions given by him, in respect of any amounts in respect of the deposits paid to the tenants by the scheme administrator (other than amounts paid to the tenants as mentioned in paragraph (c)), and
- (e) insurance is maintained by the scheme administrator in respect of failures by landlords to comply with such directions.

#### Commencement Information

**I174** Sch. 10 para. 1 wholly in force at 6.4.2007; Sch. 10 para. 1 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 1 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 1 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

#### *Provisions applying to custodial and insurance schemes*

- 2
- (1) A custodial scheme must conform with the following provisions—  
paragraphs 3 and 4, and  
paragraphs 9 and 10.
  - (2) An insurance scheme must conform with the following provisions—  
paragraphs 5 to 8, and  
paragraphs 9 and 10.

#### Commencement Information

**I175** Sch. 10 para. 2 wholly in force at 6.4.2007; Sch. 10 para. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 2 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 2 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

#### *Custodial Schemes: general*

- 3
- (1) This paragraph applies to a custodial scheme.
  - (2) The scheme must provide for any landlord who receives a tenancy deposit in connection with a shorthold tenancy to pay an amount equal to the deposit into a designated account held by the scheme administrator.

*Status: Point in time view as at 14/07/2005.*

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- (3) The designated account must not contain anything other than amounts paid into it as mentioned in sub-paragraph (2) and any interest accruing on such amounts.
- (4) Subject to sub-paragraph (5), the scheme administrator may retain any interest accruing on such amounts.
- (5) The relevant arrangements under section 212(1) may provide for any amount paid in accordance with paragraph 4 to be paid with interest -
  - (a) in respect of the period during which the relevant amount has remained in the designated account, and
  - (b) at such rate as the appropriate national authority may specify by order.
- (6) With the exception of any interest retained in accordance with subparagraph (4), nothing contained in the designated account may be used to fund the administration of the scheme.
- (7) In this paragraph "the relevant amount", in relation to a tenancy deposit, means the amount paid into the designated account in respect of the deposit.

#### Commencement Information

**I176** Sch. 10 para. 3. wholly in force at 6.4.2007; Sch. 10 para. 3. in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 10 para. 3. in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 3. in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

#### *Custodial schemes: termination of tenancies*

- 4 (1) A custodial scheme must make provision—
  - (a) for enabling the tenant and the landlord under a shorthold tenancy in connection with which a tenancy deposit is held in accordance with the scheme to apply, at any time after the tenancy has ended, for the whole or part of the relevant amount to be paid to him, and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the following provisions of this paragraph.
- (2) Sub-paragraph (3) applies where the tenant and the landlord notify the scheme administrator that they have agreed that the relevant amount should be paid—
  - (a) wholly to one of them, or
  - (b) partly to the one and partly to the other.
- (3) If, having received such a notification, the scheme administrator is satisfied that the tenant and the landlord have so agreed, the scheme administrator must arrange for the relevant amount to be paid, in accordance with the agreement, within the period of 10 days beginning with the date on which the notification is received by the scheme administrator.
- (4) Sub-paragraph (5) applies where the tenant or the landlord notifies the scheme administrator that—

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (a) a court has decided that the relevant amount is payable either wholly to one of them or partly to the one and partly to the other, and
  - (b) that decision has become final.
- (5) If, having received such a notification, the scheme administrator is satisfied as to the matters mentioned in sub-paragraph (4)(a) and (b), the scheme administrator must arrange for the relevant amount to be paid, in accordance with the decision, within the period of 10 days beginning with the date on which the notification is received by the scheme administrator.
- (6) For the purposes of this Schedule a decision becomes final—
- (a) if not appealed against, at the end of the period for bringing an appeal, or
  - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (7) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
  - (b) if it is abandoned or otherwise ceases to have effect.
- (8) In this paragraph “the relevant amount” has the meaning given by paragraph 3(7).

#### Commencement Information

**I177** Sch. 10 para. 4 wholly in force at 6.4.2007; Sch. 10 para. 4 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 4 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 4 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

*[<sup>F1</sup>Custodial schemes: termination of tenancies  
- absent or un-cooperative landlord or tenant*

#### Textual Amendments

**F1** Sch. 10 para. 4A-4C and preceding cross-heading inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), art. 3(4)

- 4A (1) The provision made by a custodial scheme for the purposes of paragraph 4(1) in relation to the treatment of the relevant amount at the end of a tenancy must include provision—
- (a) for enabling the landlord, if he considers that the conditions set out in sub-paragraph (2) are met, to apply to the scheme administrator for the whole or a specified part of the relevant amount (“the amount claimed”) to be paid to him; and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the provisions of paragraph 4C.
- (2) Such an application may be made if—

*Status: Point in time view as at 14/07/2005.*

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- (a) at least 14 days have elapsed since the day on which the tenancy ended;
  - (b) the landlord and tenant have not reached an agreement under paragraph 4(2) with respect to the amount claimed;
  - (c) either sub-paragraph (3) or sub-paragraph (4) applies; and
  - (d) the landlord believes that he is entitled to be paid the amount claimed and that the amount claimed is referable to sums falling within sub-paragraph (5).
- (3) This sub-paragraph applies if the landlord has no current address for, or other means of contacting, the tenant.
- (4) This sub-paragraph applies if—
- (a) the tenant has, since the tenancy ended, received from the landlord a written notice asking whether the tenant accepts that the landlord should be paid the whole or a specified part of the relevant amount; and
  - (b) the tenant has failed to respond to that notice within the period of 14 days beginning with the day on which he received the notice by indicating to the landlord whether he accepts that the landlord should be paid the relevant amount or the specified part of it (as the case may be).
- (5) The amount claimed must be referable to—
- (a) an amount of unpaid rent or any other sum due under the terms of the tenancy; or
  - (b) a liability of the tenant to the landlord arising under or in connection with the tenancy in respect of—
    - (i) damage to the premises subject to the tenancy, or
    - (ii) loss of or damage to property on those premises,
 other than damage caused by fair wear and tear.
- (6) If sub-paragraph (4) applies and the notice specifies part of the relevant amount, the amount claimed in the application must not exceed the specified part.
- (7) The application must be accompanied by a statutory declaration made by the landlord stating—
- (a) the date on which the tenancy ended;
  - (b) that the landlord and the tenant have not reached any agreement under paragraph 4(2) with respect to the amount claimed, with details of any communications between them since that date (whether relating to the relevant amount or otherwise);
  - (c) the basis on which the amount claimed is calculated, with particulars of any facts relied on to justify claiming that amount;
  - (d) if the landlord relies on the condition in sub-paragraph (3), that he has no current address for, or other means of contacting, the tenant, giving particulars of any address (other than the premises subject to the tenancy) and other contact details (including telephone numbers or e mail addresses) which the landlord has had for the tenant;
  - (e) if the landlord relies on the condition in sub-paragraph (4), that the condition is met, with particulars of the facts relied on to demonstrate that it is met and attaching a copy of the notice given to the tenant;
  - (f) any information he has as to the whereabouts of the tenant;

*Status: Point in time view as at 14/07/2005.*

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- (g) that he gives his consent, in the event of the tenant disputing that the landlord should be paid the amount claimed, for the dispute to be resolved through the use of the dispute resolution service;
- (h) that he considers that he is entitled to be paid the amount claimed; and
- (i) that he makes the statutory declaration knowing that if he knowingly and wilfully makes a false declaration he may be liable to prosecution under the <sup>M1</sup>Perjury Act 1911.

#### Marginal Citations

M1 1911 c. 6

- 4B (1) The provision made by a custodial scheme for the purposes of paragraph 4(1) in relation to the treatment of the relevant amount at the end of a tenancy must include provision—
- (a) for enabling the tenant, if he considers that the conditions set out in sub-paragraph (2) are met, to apply to the scheme administrator for the whole or a specified part of the relevant amount (“the amount claimed”) to be paid to him; and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the provisions of paragraph 4C.
- (2) Such an application may be made if—
- (a) at least 14 days have elapsed since the day on which the tenancy ended;
  - (b) the landlord and tenant have not reached an agreement under paragraph 4(2) with respect to the amount claimed;
  - (c) either sub-paragraph (3) or sub-paragraph (4) applies; and
  - (d) the tenant believes that he is entitled to be paid the amount claimed.
- (3) This sub-paragraph applies if the tenant has no current address for, or other means of contacting, the landlord.
- (4) This sub-paragraph applies if—
- (a) the landlord has, since the tenancy ended, received from the tenant a written notice asking whether the landlord accepts that the tenant should be paid the whole or a specified part of the relevant amount; and
  - (b) the landlord has failed to respond to that notice within the period of 14 days beginning with the day on which he received the notice by indicating to the tenant whether he accepts that the tenant should be paid the relevant amount or the specified part of it (as the case may be).
- (5) If sub-paragraph (4) applies and the notice specifies part of the relevant amount, the amount claimed in the application must not exceed the specified part.
- (6) The application must be accompanied by a statutory declaration made by the tenant stating—
- (a) the date on which the tenancy ended;
  - (b) that the landlord and the tenant have not reached any agreement under paragraph 4(2) with respect to the amount claimed, with details of any communications between them since that date (whether relating to the relevant amount or otherwise);

*Status: Point in time view as at 14/07/2005.*

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- (c) if the tenant relies on the condition in sub-paragraph (3), that he has no current address for, or other means of contacting, the landlord, giving particulars of any address and other contact details (including telephone numbers or e mail addresses) which the tenant has had for the landlord;
- (d) if the tenant relies on the condition in sub-paragraph (4), that the condition is met, with particulars of the facts relied on to demonstrate that it is met and attaching a copy of the notice given to the landlord;
- (e) any information he has as to the whereabouts of the landlord;
- (f) that he gives his consent, in the event of the landlord disputing that the tenant should be paid the amount claimed, for the dispute to be resolved through the use of the dispute resolution service;
- (g) that he considers that he is entitled to be paid the amount claimed; and
- (h) that he makes the statutory declaration knowing that if he knowingly and wilfully makes a false declaration he may be liable to prosecution under the <sup>M2</sup>Perjury Act 1911.

#### Marginal Citations

M2 1911 c. 6

- 4C (1) Immediately upon receipt of—
- (a) a duly completed application from the landlord, accompanied by a statutory declaration which appears to meet the requirements of paragraph 4A(7), or
  - (b) a duly completed application from the tenant, accompanied by a statutory declaration which appears to meet the requirements of paragraph 4B(6),
- the scheme administrator must give to the tenant or, as the case may be, the landlord (“the other party”) a copy of the application and accompanying statutory declaration and a notice under sub-paragraph (2).
- (2) A notice under this sub-paragraph is a notice—
- (a) asking the other party to indicate—
    - (i) whether he accepts that the applicant should be paid the whole or part of the amount claimed;
    - (ii) if he accepts that part of the amount claimed should be paid, the amount he accepts should be paid; and
    - (iii) if he does not accept that the applicant should be paid the whole of the amount claimed, whether he consents to the dispute being resolved through the use of the dispute resolution service; and
  - (b) warning the other party that—
    - (i) the amount claimed will be paid to the applicant unless, within the relevant period, the other party informs the scheme administrator that he does not accept that the whole of the amount claimed should be paid to the applicant; and
    - (ii) if the other party responds to the scheme administrator informing him that he does not accept that the whole of the amount claimed should be paid to the applicant, but fails to respond within the relevant period to the question mentioned in paragraph (a)(iii), he will be treated as having given his consent for the dispute to be resolved through the use of the dispute resolution service.

*Status: Point in time view as at 14/07/2005.*

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- (3) If within the relevant period the scheme administrator receives a response from the other party to the effect that he accepts that the amount claimed should be paid to the applicant—
  - (a) the application must be granted; and
  - (b) the scheme administrator must arrange for the amount claimed to be paid to the applicant within the period of 10 days beginning with the day on which the scheme administrator receives that response.
- (4) If within the relevant period the scheme administrator receives a response from the other party to the effect that he does not accept that the applicant should be paid any of the amount claimed—
  - (a) the application must be refused;
  - (b) the scheme administrator must not pay the amount claimed to either party except in accordance with the relevant provisions of paragraph 4; and
  - (c) the scheme administrator must inform the applicant of the other party's response to the questions asked in the notice under sub-paragraph (2).
- (5) If within the relevant period the scheme administrator receives a response from the other party to the effect that he accepts that part of the amount claimed should be paid to the applicant—
  - (a) sub-paragraph (3) applies in relation to that part of the amount claimed; and
  - (b) sub-paragraph (4) applies to so much of the application as relates to the rest of the amount claimed.
- (6) If the scheme administrator does not, within the relevant period, receive a response from the other party indicating whether he accepts that the whole or part of the amount claimed should be paid to the applicant, the scheme administrator must arrange for the amount claimed to be paid to the applicant within the period of 10 days beginning with the day after the last day of the relevant period.
- (7) If within the relevant period the scheme administrator receives a response from the other party to the effect that he does not accept that the applicant should be paid the whole of the amount claimed but the other party fails within that period to indicate whether he consents to the dispute being resolved through the use of the dispute resolution service—
  - (a) the other party is to be treated as having given his consent to the use of that service; and
  - (b) the scheme administrator must inform the applicant that such consent is treated as having been given.
- (8) In this paragraph “the relevant period”, in relation to the application, means the period of 14 days beginning with the day on which the notice mentioned in sub-paragraph (2) is received by the other party.]

VALID FROM 06/04/2007

*Insurance schemes: general*

- 5 (1) This paragraph applies to an insurance scheme.

*Status: Point in time view as at 14/07/2005.*

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- (2) The scheme must provide that any landlord by whom a tenancy deposit is retained under the scheme must give the scheme administrator an undertaking that, if the scheme administrator directs the landlord to pay him any amount in respect of the deposit in accordance with paragraph 6(3) or (7), the landlord will comply with such a direction.
- (3) The scheme must require the scheme administrator to effect, and maintain in force, adequate insurance in respect of failures by landlords by whom tenancy deposits are retained under the scheme to comply with such directions as are mentioned in sub-paragraph (2).
- (4) If the scheme provides for landlords participating in the scheme to be members of the scheme, the scheme may provide for a landlord's membership to be terminated by the scheme administrator in the event of any such failure on the part of the landlord.
- (5) The scheme may provide for landlords participating in the scheme to pay to the scheme administrator—
  - (a) fees in respect of the administration of the scheme, and
  - (b) contributions in respect of the cost of the insurance referred to in sub-paragraph (3).

#### Commencement Information

**1178** Sch. 10 para. 5 wholly in force at 6.4.2007; Sch. 10 para. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 5 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 5 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

*<sup>F2</sup>Requirements where deposit is to cease to be retained under an insurance scheme*

#### Textual Amendments

**F2** Sch. 10 para. 5A and preceding cross-heading inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), art. 5

- 5A
- (1) This paragraph applies in relation to—
    - (a) a notice of the kind mentioned in paragraph 5(1A)(b) or (3B), or
    - (b) a notice from the scheme administrator stating that he proposes to terminate a landlord's membership of the scheme under paragraph 5(4),
 given in accordance with an insurance scheme.
  - (2) The scheme must make provision for the scheme administrator, in the case of a notice of the kind mentioned in paragraph 5(1A)(b) which has not been not withdrawn—
    - (a) to determine the date on which the tenancy deposit is to cease to be retained under the scheme; and
    - (b) to give a notice under sub-paragraph (4) to the landlord and to the tenant.

*Status: Point in time view as at 14/07/2005.*

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- (3) The scheme must make provision for the scheme administrator, in the case of a notice of the kind mentioned in paragraph 5(3B), to take the following steps after the end of the period of 14 days beginning with the day on which that notice is received—
  - (a) to determine whether the deposit should cease to be retained under the scheme and, if so, the date on which it is to cease to be so retained;
  - (b) if the determination is that the deposit should continue to be retained under the scheme, to give a notice of the determination to the landlord;
  - (c) if the determination is that the deposit should cease to be so retained, to give a notice under sub-paragraph (4) to the landlord and to the tenant.
- (4) A notice under this sub-paragraph is a notice—
  - (a) identifying the tenancy deposit in question;
  - (b) informing the recipients of the notice of the determination made by the scheme administrator and stating the date when the deposit ceases to be retained under the scheme; and
  - (c) giving a general explanation of the continuing effect of sections 213 to 215 of this Act in relation to the deposit (including in particular the effect of section 213 as modified by sub-paragraph (9)).
- (5) The scheme must make provision for the scheme administrator, in the case of a notice of the kind mentioned in sub-paragraph (1)(b), to take the following steps after the end of the period of 14 days beginning with the day on which that notice is received—
  - (a) to determine whether to terminate the landlord's membership and, if so, the date on which his membership is to terminate;
  - (b) if the determination is that the landlord should continue as a member, to give a notice of the determination to the landlord; and
  - (c) if the determination is that the membership should be terminated, to give a notice under sub-paragraph (6) to the landlord and to the tenant under any tenancy in relation to which a deposit affected by the determination is retained under the scheme.
- (6) A notice under this sub-paragraph is a notice—
  - (a) informing the recipients of the notice of the determination by the scheme administrator that the landlord's membership of the scheme is to be terminated and stating the date on which his membership terminates;
  - (b) giving a general explanation of the effect of the termination on any tenancy deposits retained by the landlord under the scheme; and
  - (c) giving a general explanation of the continuing effect of sections 213 to 215 of this Act in relation to any tenancy deposits that cease to be retained under the scheme as a result of the termination of membership (including in particular the effect of section 213 as modified by sub-paragraph (9)).
- (7) The date determined under sub-paragraph (2)(a), (3)(a) or (5)(a) must not be within the period of three months beginning with the day on which the original notice mentioned in sub-paragraph (1) was received.
- (8) A notice under sub-paragraph (4) or (6) must be given at least two months before the date on which the deposit ceases to be retained under the scheme or the landlord's membership terminates (as the case may be).

*Status: Point in time view as at 14/07/2005.*

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- (9) In the application of section 213 to a tenancy deposit which ceases to be retained under an insurance scheme (“the old scheme”) by virtue of a determination mentioned in this paragraph—
- (a) references to receiving the deposit include a reference to ceasing to retain it under the terms of the old scheme;
  - (b) subsection (3) has effect as if for the words “within the period of 14 days beginning with the date on which it is received” there were substituted before the deposit ceases to be retained under the old scheme; and
  - (c) subsection (6)(b) has effect as if the reference to the date on which the landlord receives the deposit were a reference to the date on which the deposit ceases to be retained under the old scheme.]

*Insurance schemes: termination of tenancies*

- 6 (1) An insurance scheme must make provision in accordance with this paragraph and paragraphs 7 and 8 in relation to the respective obligations of the landlord and the scheme administrator where—
- (a) a tenancy deposit has been retained by the landlord under the scheme, and
  - (b) the tenancy has ended.
- (2) Sub-paragraphs (3) to (9) apply where the tenant notifies the scheme administrator that—
- (a) the tenant has requested the landlord to repay to him the whole or any part of the deposit, and
  - (b) the amount in question (“the outstanding amount”) has not been repaid to him within the period of 10 days beginning with the date on which the request was made.
- (3) On receiving a notification in accordance with sub-paragraph (2), the scheme administrator must direct the landlord—
- (a) to pay an amount equal to the outstanding amount into a designated account held by the scheme administrator, and
  - (b) to do so within the period of 10 days beginning with the date on which the direction is received by the landlord.
- (4) The following sub-paragraphs apply where the tenant or the landlord notifies the scheme administrator—
- (a) that a court has decided that the outstanding amount is payable either wholly to one of them or partly to the one and partly to the other and the decision has become final (see paragraph 4(6) and (7)), or
  - (b) that the tenant and landlord have agreed that such an amount is to be paid either wholly to one of them or partly to the one and partly to the other.
- (5) If the scheme administrator is satisfied as to the matters mentioned in sub-paragraph (4)(a) or (b) (as the case may be), he must—
- (a) pay to the tenant any amount due to him in accordance with the decision or agreement (and, to the extent possible, pay that amount out of any amount held by him by virtue of sub-paragraph (3)), and
  - (b) comply with sub-paragraph (6) or (7), as the case may be.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (6) Where any amount held by the scheme administrator by virtue of sub-paragraph (3) is more than any amount due to the tenant in accordance with the decision or agreement, the scheme administrator must pay the balance to the landlord.
- (7) Where any amount so held by the scheme administrator is less than any amount so due to the tenant, the scheme administrator must direct the landlord to pay him the difference within the period of 10 days beginning with the date on which the direction is received by the landlord.
- (8) The scheme administrator must pay any amounts required to be paid to the tenant or the landlord as mentioned in sub-paragraph (5)(a) or (6) within 10 days beginning with the date on which the notification is received by the scheme administrator.
- (9) The landlord must comply with any direction given in accordance with sub-paragraph (3) or (7).

#### Commencement Information

**I179** Sch. 10 para. 6 wholly in force at 6.4.2007; Sch. 10 para. 6 not in force at Royal Assent see s. 270(4) (5); Sch. 10 para. 6 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 6 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

*<sup>F3</sup>Notice to be sent to landlord when a direction under paragraph 6(3) is given*

#### Textual Amendments

**F3** Sch. 10 para. 6A and preceding cross-heading inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#) {art. 7}

- 6A (1) This paragraph applies where the scheme administrator of an insurance scheme gives a direction under paragraph 6(3) to a landlord.
- (2) The scheme administrator must also send to the landlord a notice—
- (a) asking the landlord to indicate—
    - (i) whether he accepts that the tenant should be repaid the whole or part of the outstanding amount;
    - (ii) if he accepts that part of it should be repaid, the amount he accepts should be repaid; and
    - (iii) if he does not accept that the tenant should be repaid the whole of the outstanding amount, whether he consents to the dispute being resolved through the use of the dispute resolution service; and
  - (b) warning the landlord that if he does not accept that the tenant should be repaid the whole of the outstanding amount but fails to respond within the relevant period to the question mentioned in paragraph (a)(iii), he will be treated as having given his consent for the dispute to be resolved through the use of that service.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (3) If the scheme administrator does not, within the relevant period, receive a response from the landlord indicating whether he accepts that the whole or part of the outstanding amount should be paid to the tenant—
- (a) the scheme administrator must treat the lack of a response as an indication that the landlord does not accept that the tenant should be repaid any of the outstanding amount;
  - (b) the scheme administrator must determine forthwith whether he is satisfied that the notice was received by the landlord;
  - (c) if the scheme administrator determines that he is satisfied that it was so received, the landlord is to be treated as having given his consent for the dispute to be resolved through the use of the dispute resolution service; and
  - (d) the scheme administrator must inform the tenant and the landlord whether or not such consent is to be treated as having been given.
- (4) If within the relevant period the scheme administrator receives a response to the notice under sub-paragraph (2) to the effect that the landlord does not accept that the tenant should be repaid the whole of the outstanding amount but the landlord fails within that period to indicate whether he consents to the dispute being resolved through the dispute resolution service—
- (a) the landlord is to be treated as having given his consent for the dispute to be resolved through the use of that service; and
  - (b) the scheme administrator must inform the tenant and the landlord that such consent is to be treated as given.
- (5) In this paragraph—
- “the outstanding amount” has the same meaning as in paragraph 6;
- “the relevant period” means the period of 10 working days beginning with the day after that on which the notice referred to in sub-paragraph (2) is sent; and
- “working days” shall be taken to exclude Saturdays, Sundays, Christmas Day, Good Friday and any day which, under the Banking and Financial Dealings Act 1971 <sup>M3</sup>, is a bank holiday in England and Wales.]

#### Marginal Citations

**M3** 1971 c 80.

VALID FROM 06/04/2007

### *F<sup>4</sup> Insurance schemes – supplementary provisions*

#### Textual Amendments

**F4** Cross-heading preceding Sch. 10 para. 7 inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 12](#)

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- <sup>x17</sup> (1) The designated account held by the scheme administrator must not contain anything other than amounts paid into it as mentioned in paragraph 6(3) and any interest accruing on such amounts.
- (2) Subject to sub-paragraph (3), the scheme administrator may retain any interest accruing on such amounts.
- (3) The relevant arrangements under section 212(1) may provide for any amount paid in accordance with paragraph 6(5)(a) or (6) to be paid with interest—
- (a) in respect of the period during which the relevant amount has remained in the designated account, and
  - (b) at such rate as the appropriate national authority may specify for the purposes of paragraph 3(5)(b).
- (4) With the exception of any interest retained in accordance with sub-paragraph (2), nothing contained in the designated account may be used to fund the administration of the scheme.
- (5) In this paragraph “the relevant amount”, in relation to a tenancy deposit, means the amount, in respect of the deposit, paid into the designated account by virtue of a direction given in accordance with paragraph 6(3).

#### **Editorial Information**

- X1** The insertion of the new heading "Insurance schemes - supplementary provisions" in Sch. 10 on 6.4.2007 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### **Commencement Information**

- I180** Sch. 10 para. 7 wholly in force at 6.4.2007; Sch. 10 para. 7 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 7 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 7 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

- <sup>x28</sup> (1) The scheme must make provision for preventing double recovery by a tenant in respect of the whole or part of the deposit, and may in that connection make provision—
- (a) for excluding or modifying any requirement imposed by the scheme in accordance with paragraph 6 or 7, and
  - (b) for requiring the repayment of amounts paid to the tenant by the scheme administrator.
- (2) In this paragraph “double recovery”, in relation to an amount of a tenancy deposit, means recovering that amount both from the scheme administrator and from the landlord.]

#### **Editorial Information**

- X2** The insertion of the new heading "Insurance schemes - supplementary provisions" in Sch. 10 on 6.4.2007 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

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**Commencement Information**

**I181** Sch. 10 para. 8 wholly in force at 6.4.2007; Sch. 10 para. 8 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 8 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 8 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

*Notifications to tenants*

- 9 (1) Every custodial scheme or insurance scheme must provide for the scheme administrator to respond as soon as is practicable to any request within sub-paragraph (2) made by the tenant under a shorthold tenancy.
- (2) A request is within this sub-paragraph if it is a request by the tenant to receive confirmation that a deposit paid in connection with the tenancy is being held in accordance with the scheme.

**Commencement Information**

**I182** Sch. 10 para. 9 wholly in force at 6.4.2007; Sch. 10 para. 9 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 9 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 9 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

VALID FROM 06/04/2007

*Dispute resolution procedures*

- 10 (1) Every custodial scheme or insurance scheme must provide for facilities to be available for enabling disputes relating to tenancy deposits subject to the scheme to be resolved without recourse to litigation.
- (2) The scheme must not, however, make the use of such facilities compulsory in the event of such a dispute.

**Commencement Information**

**I183** Sch. 10 para. 10 wholly in force at 6.4.2007; Sch. 10 para. 10 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 10 in force for W. at 6.4.2007 by S.I. 2007/305, art. 2; Sch. 10 para. 10 in force for E. at 6.4.2007 by S.I. 2007/1068, art. 2(a)

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VALID FROM 06/04/2007

*f<sup>5</sup>Service of documents: general*

**Textual Amendments**

**F5** Sch. 10 paras. 10A-10C and cross-headings inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), [art. 9](#)

- 10A A tenancy deposit scheme may make provision as to the methods which may be used for giving or sending any direction, notice or other document which falls to be given or sent under the scheme.

VALID FROM 06/04/2007

*Service of documents by scheme administrator on landlords*

- 10B (1) The provision made by a tenancy deposit scheme under paragraph 10A may include provision for any direction, notice or other document mentioned in this Schedule which is to be given or sent to a landlord by the scheme administrator to be treated as having been received on the second day after the day on which it is sent by first class post to the landlord at the address last provided by him to the scheme administrator as the postal address to which correspondence may be sent.
- (2) Sub-paragraph (1) does not apply to the notice mentioned in paragraph 6A(2).
- (3) Provision made under sub-paragraph (1) may require the scheme administrator—
- (a) to send a document to an address other than that mentioned in that sub-paragraph; or
  - (b) to use or attempt to use any other available means of communication, before sending a document which is to be treated as having been received as mentioned in that sub-paragraph.

VALID FROM 06/04/2007

*Service of documents by scheme administrator on tenants*

- 10C (1) The provision made by a tenancy deposit scheme under paragraph 10A may include provision for any notice or other document mentioned in this Schedule which is to be given or sent to a tenant by the scheme administrator to be treated as having been received on the second day after the day on which it is sent by first class post to the tenant at the proper address.
- (2) In the case of a notice mentioned in paragraph 4C(2), the proper address is—
- (a) the address (if any) last provided to the scheme administrator as the address to which correspondence may be sent; or

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- (b) if no such address has been provided, the address given in the landlord's statutory declaration as the tenant's last known address or, if the scheme administrator has a more recent address for the tenant, that address.
- (3) In the case of a notice of the kind mentioned in paragraph 5A(4) or (6), the proper address is the address of the premises subject to the tenancy in question.
- (4) Provision made under sub-paragraph (1) may require the scheme administrator—
- (a) to send a document to an address other than the proper address, or
  - (b) to use or attempt to use any other available means of communication, before sending a document which is to be treated as having been received as mentioned in that sub-paragraph]

#### Textual Amendments

- F5** Sch. 10 paras. 10A-10C and cross-headings inserted (6.4.2007) by [The Housing \(Tenancy Deposit Schemes\) Order 2007 \(S.I. 2007/796\)](#), **art. 9**

#### *Power to amend*

- 11 The appropriate national authority may by order make such amendments of this Schedule as it considers appropriate.

#### Commencement Information

- I184** Sch. 10 para. 11 wholly in force at 6.4.2007; Sch. 10 para. 11 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 10 para. 11 in force for W. at 6.4.2007 by [S.I. 2007/305](#), **art. 2**; Sch. 10 para. 11 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), **art. 2(a)**

VALID FROM 06/04/2007

#### *Interpretation*

- 12 In this Schedule references to tenants under shorthold tenancies include references to persons who, in accordance with arrangements made with such tenants, have paid tenancy deposits on behalf of the tenants.

#### Commencement Information

- I185** Sch. 10 para. 12 wholly in force at 6.4.2007; Sch. 10 para. 12 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 12 in force for W. at 6.4.2007 by [S.I. 2007/305](#), **art. 2**; Sch. 10 para. 12 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), **art. 2(a)**

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## SCHEDULE 11

Section 218

### REGISTERED SOCIAL LANDLORDS

#### *Housing Associations Act 1985 (c. 69)*

1 In section 87 of the Housing Associations Act 1985 (financial assistance with respect to formation, management, etc. of certain housing associations) omit—

- (a) in subsection (3), the words from “, acting” onwards, and
- (b) subsection (6).

#### *Housing Act 1988 (c. 50)*

2 The Housing Act 1988 is amended as follows.

3 In section 50(2) (housing association grants) omit the words from “, acting” onwards.

4 In section 52(2) (recovery etc. of grants) omit the words from “, acting” to “determine,”.

5 Omit section 55 (surplus rental income).

6 In section 59(1A) (interpretation) for “55” substitute “ 54 ”.

#### *Housing Act 1996 (c. 52)*

7 The Housing Act 1996 is amended as follows.

8 In section 18(2) (social housing grants) omit the words from “, acting” to “determine,”.

9 In section 20(3) (purchase grant where right to acquire exercised) omit the words from “, acting” to “determine,”.

10 In section 21(3) (purchase grant in respect of other disposals) omit the words from “, acting” to “determine,”.

11 In section 28 (grants under sections 50 to 55 of the Housing Act 1988), in the sidenote and in subsection (6), for “55” substitute “ 54 ”.

12 (1) In section 31(2) (offence of intentionally altering etc. document required to be produced under section 30), for paragraph (b) substitute—

“(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.”

(2) The amendment made by sub-paragraph (1) does not apply in relation to any offence committed before the day on which that sub-paragraph comes into force.

13 (1) Section 36 (issue of guidance by the Relevant Authority) is amended as follows.

(2) In subsection (2) (particular matters with respect to which guidance may be issued under the section) for “this section” substitute “ subsection (1) ”.

(3) After subsection (2) insert—

“(2A) The Relevant Authority may also issue guidance with respect to—

- (a) the governance of bodies that are registered social landlords;

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- (b) the effective management of such bodies;
- (c) establishing and maintaining the financial viability of such bodies.”
- (4) In subsection (7) (guidance relevant to whether there has been mismanagement) after “there has been” insert “ misconduct or ”.
- 14 In paragraph 1(2) of Schedule 1 (payments by way of gift, dividend or bonus) after paragraph (b) insert—
  - “(c) the payment of a sum, in accordance with the constitution or rules of the body, to a registered social landlord which is a subsidiary or associate of the body.”

PROSPECTIVE

VALID FROM 01/04/2010

- 15 (1) Paragraph 15 of Schedule 1 (transfer of net assets on dissolution or winding up) is amended as follows.
  - (2) In sub-paragraph (1)(b), after “1985” insert “ (including such a company which is also a registered charity) ”.
  - (3) At the end of sub-paragraph (4) insert— “ And in such a case any registered social landlord specified in a direction under sub-paragraph (2) must be one to which paragraphs (a) and (b) above apply. ”
- 16 After paragraph 15 insert—
 

*“Transfer of net assets on termination of charity not within paragraph 15(1)*

15A(1) The Secretary of State may by regulations provide for any provisions of paragraph 15(2) to (6) to apply in relation to a registered social landlord within sub-paragraph (2)—

  - (a) in such circumstances, and
  - (b) with such modifications,

as may be specified in the regulations.

  - (2) A registered social landlord is within this sub-paragraph if—
    - (a) it is a registered charity, and
    - (b) it does not fall within sub-paragraph (1) of paragraph 15.
  - (3) Regulations under this paragraph may in particular provide that any provision of the regulations requiring the transfer of any property of the charity is to have effect notwithstanding—
    - (a) anything in the terms of its trusts, or
    - (b) any resolution, order or other thing done for the purposes of, or in connection with, the termination of the charity in any manner specified in the regulations.

*Status: Point in time view as at 14/07/2005.*

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- (4) Any regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I186** Sch. 11 para. 16 partly in force; Sch. 11 para. 16 in force for certain purposes at Royal Assent see s. 270(2)(b)

- 17 (1) Paragraph 16 of Schedule 1 (general requirements as to accounts and audit) is amended as follows.

- (2) Omit sub-paragraph (4) (auditor’s report to state whether accounts comply with paragraph 16).

- (3) For sub-paragraph (5) substitute—

“(5) Every registered social landlord shall furnish to the Relevant Authority—

- (a) a copy of its accounts, and  
(b) (subject to sub-paragraph (7)) a copy of the auditor’s report in respect of them,

within six months of the end of the period to which they relate.

- (6) The auditor’s report shall state, in addition to any other matters which it is required to state, whether in the auditor’s opinion the accounts comply with the requirements laid down under this paragraph.

- (7) The provisions of sub-paragraphs (5)(b) and (6) do not apply where, by virtue of any enactment—

- (a) any accounts of a registered social landlord are not required to be audited, and  
(b) instead a report is required to be prepared in respect of them by a person appointed for the purpose (“the reporting accountant”),

and sub-paragraph (8) shall apply in place of those provisions.

- (8) In such a case—

- (a) the registered social landlord shall furnish to the Relevant Authority a copy of the reporting accountant’s report in respect of the accounts within six months of the end of the period to which they relate; and  
(b) that report shall state, in addition to any other matters which it is required to state, whether in the reporting accountant’s opinion the accounts comply with the requirements laid down under this paragraph.”

- 18 After paragraph 16 of Schedule 1 insert—

*“Companies exempt from audit requirements: accountant’s report*

- 16A (1) This paragraph applies to registered social landlords which are companies registered under the Companies Act 1985 (“RSL companies”).

- (2) In section 249A of the Companies Act 1985 (exemptions from audit)—

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- (a) subsection (2) shall apply in relation to an RSL company which meets the total exemption conditions in respect of a financial year (whether it is a charity or not), and
  - (b) that subsection shall apply in relation to such a company in the same way as it applies in relation to an RSL company which is a charity and meets the report conditions in relation to a financial year; and
  - (c) subsection (1) accordingly does not have effect in relation to an RSL company.
- (3) In section 249C of that Act (report required for the purposes of section 249A(2)), subsection (3) shall apply in relation to an RSL company within sub-paragraph (2)(a) above as if the reference to satisfying the requirements of section 249A(4) were a reference to meeting the total exemption conditions.
- (4) The Relevant Authority may, in respect of any relevant financial year of an RSL company, give a direction to the company requiring it—
- (a) to appoint a qualified auditor to audit its accounts and balance sheet for that year, and
  - (b) to furnish to the Relevant Authority a copy of the auditor’s report by such date as is specified in the direction.
- (5) For the purposes of sub-paragraph (4), a financial year of an RSL company is a “relevant financial year” if—
- (a) it precedes that in which the direction is given, and
  - (b) the company met either the total exemption conditions or the report conditions in respect of that year, and
  - (c) its accounts and balance sheet for that year were not audited in accordance with Part 7 of the Companies Act 1985.
- (6) In this paragraph—
- (a) “financial year” has the meaning given by section 223 of the Companies Act 1985;
  - (b) “qualified auditor” means a person who is eligible for appointment as auditor of the company under Part 2 of the Companies Act 1989;
  - (c) any reference to a company meeting the report conditions is to be read in accordance with section 249A(4) of the Companies Act 1985; and
  - (d) any reference to a company meeting the total exemption conditions is to be read in accordance with section 249A(3) or section 249A(3) and (3A) of that Act, depending on whether it is a charity.”

19 For paragraph 17 of Schedule 1 (appointment of auditors by industrial and provident societies), together with the heading preceding it, substitute—

*“Industrial and provident societies exempt  
from audit requirements: accountant’s report*

- 17 (1) This paragraph applies to registered social landlords which are industrial and provident societies.

*Status: Point in time view as at 14/07/2005.*

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- (2) Section 9A of the Friendly and Industrial and Provident Societies Act 1968 (duty to obtain accountant's reports where section 4 applied) shall have effect, in its application to such a landlord, with the omission of subsection (1)(b) (accountant's report required only where turnover exceeds a specified sum).
  - (3) The Relevant Authority may, in respect of any relevant year of account of such a landlord, give a direction to the landlord requiring it—
    - (a) to appoint a qualified auditor to audit its accounts and balance sheet for that year, and
    - (b) to furnish to the Relevant Authority a copy of the auditor's report by such date as is specified in the direction.
  - (4) For the purposes of sub-paragraph (3), a year of account of a landlord is a "relevant year of account" if—
    - (a) it precedes that in which the direction is given, and
    - (b) at the end of it there is in force in relation to it a disapplication under section 4A(1) of the Friendly and Industrial and Provident Societies Act 1968.
  - (5) In this paragraph—
    - "qualified auditor" means a person who is a qualified auditor for the purposes of the Friendly and Industrial and Provident Societies Act 1968;
    - "year of account" has the meaning given by section 21(1) of that Act."
- 20 (1) Paragraph 18 of Schedule 1 (accounting and audit requirements for charities) is amended as follows.
- (2) In the cross-heading preceding the paragraph, after "and audit" insert "or reporting".
  - (3) In sub-paragraph (1) (application of provisions to registered social landlord which is a registered charity) omit the words from "(which impose" onwards.
  - (4) For sub-paragraph (4) substitute—
    - (4) The charity must appoint a qualified auditor ("the auditor") to audit the accounts prepared in accordance with sub-paragraph (3) in respect of each period of account in which—
      - (a) the charity's gross income (within the meaning of the Charities Act 1993) arising in connection with its housing activities, or
      - (b) its total expenditure arising in connection with those activities, exceeds the sum for the time being specified in section 43(1) of the Charities Act 1993 (audit required for charities where gross income or total income exceeds the specified sum).
    - (4A) Where sub-paragraph (4) does not apply in respect of a period of account, the charity must appoint a qualified auditor ("the reporting accountant") to make such a report as is mentioned in paragraph 18A(1) in respect of the period of account.
    - (4B) In sub-paragraphs (4) and (4A) "qualified auditor" means a person who is eligible for appointment as auditor of the charity under Part 2 of the

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Companies Act 1989 or who would be so eligible if the charity were a company registered under the Companies Act 1985.”

21 After paragraph 18 of Schedule 1 insert—

*“Charities exempt from audit requirements: accountant’s report*

- 18A (1) The report referred to in paragraph 18(4A) is a report—
- (a) relating to the charity’s accounts prepared in accordance with paragraph 18(3) in respect of the period of account in question, and
  - (b) complying with sub-paragraphs (2) and (3) below.
- (2) The report must state whether, in the opinion of the reporting accountant—
- (a) the revenue account or accounts and the balance sheet are in agreement with the books of account kept by the charity under paragraph 18(2),
  - (b) on the basis of the information contained in those books of account, the revenue account or accounts and the balance sheet comply with the requirements of the Charities Act 1993, and
  - (c) on the basis of the information contained in those books of account, paragraph 18(4A) applied to the charity in respect of the period of account in question.
- (3) The report must also state the name of the reporting accountant and be signed by him.
- (4) Paragraph 18(7) applies to the reporting accountant and his functions under this paragraph as it applies to an auditor and his functions under paragraph 18.
- (5) The Relevant Authority may, in respect of a relevant period of account of a charity, give a direction to the charity requiring it—
- (a) to appoint a qualified auditor to audit its accounts for that period, and
  - (b) to furnish to the Relevant Authority a copy of the auditor’s report by such date as is specified in the direction;
- and paragraph 18(5) to (7) apply to an auditor so appointed as they apply to an auditor appointed under paragraph 18.
- (6) For the purposes of sub-paragraph (5), a period of account of a charity is a relevant period of account if—
- (a) it precedes that in which the direction is given; and
  - (b) paragraph 18(4A) applied in relation to it.
- (7) In this paragraph “period of account” and “qualified auditor” have the same meaning as in paragraph 18(4A).”

22 (1) Paragraph 19 of Schedule 1 (responsibility for securing compliance with accounting requirements) is amended as follows.

(2) In sub-paragraph (2)—

- (a) in paragraph (c), after “and audit” insert “ or reporting ”;

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- (b) omit paragraph (d) (but not the “or” at the end); and
    - (c) for “level 3” substitute “ level 5 ”.
  - (3) The amendment made by sub-paragraph (2)(c) does not apply in relation to any offence committed before the day on which that sub-paragraph comes into force.
  - (4) After sub-paragraph (4) insert—
    - “(5) Where any of paragraphs (a) to (e) of sub-paragraph (2) applies in respect of any default on the part of a registered social landlord, the High Court may, on the application of the Relevant Authority, make such order as the court thinks fit for requiring the default to be made good.
    - Any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the registered social landlord or by any of its officers who are responsible for the default.”
- 23 After paragraph 19 of Schedule 1 insert—
- “Disclosure of information by auditors etc. to the Relevant Authority*
- 19A (1) A person who is, or has been, an auditor of a registered social landlord does not contravene any duty to which he is subject merely because he gives to the Relevant Authority —
- (a) information on a matter of which he became aware in his capacity as auditor of the registered social landlord, or
  - (b) his opinion on such a matter,
- if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the Relevant Authority.
- (2) Sub-paragraph (1) applies whether or not the person is responding to a request from the Relevant Authority.
  - (3) This paragraph applies to a person who is, or has been, a reporting accountant as it applies to a person who is, or has been, an auditor.
  - (4) A “reporting accountant” means a person appointed as mentioned in paragraph 16(7)(b).”
- 24 (1) Paragraph 20 of Schedule 1 (inquiry into affairs of registered social landlord) is amended as follows.
- (2) After sub-paragraph (4) insert—
    - “(4A) The person or persons conducting the inquiry may determine the procedure to be followed in connection with the inquiry.”
  - (3) At the end of sub-paragraph (7) add “, and the Relevant Authority may arrange for the whole or part of an interim or final report to be published in such manner as it considers appropriate. ”
  - (4) After sub-paragraph (7) insert—
    - “(8) A local authority may, if they think fit, contribute to the expenses of the Relevant Authority in connection with any inquiry under this paragraph.”

*Status: Point in time view as at 14/07/2005.*

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25 After paragraph 20 of Schedule 1 insert—

*“Evidence*

- 20A (1) For the purposes of an inquiry the person or persons conducting it may serve a notice on an appropriate person directing him to attend at a specified time and place and do either or both of the following, namely—
- (a) give evidence;
  - (b) produce any specified documents, or documents of a specified description, which are in his custody or under his control and relate to any matter relevant to the inquiry.
- (2) The person or persons conducting such an inquiry—
- (a) may take evidence on oath and for that purpose administer oaths, or
  - (b) instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matters about which he is examined.
- (3) In this paragraph—
- “appropriate person”* means a person listed in section 30(2);
- “document”* has the same meaning as in section 30;
- “inquiry”* means an inquiry under paragraph 20.
- (4) A person may not be required under this paragraph to disclose anything that, by virtue of section 30(4), he could not be required to disclose under section 30.
- (5) Section 31 (enforcement of notice to provide information, &c) applies in relation to a notice given under this paragraph by the person or persons conducting an inquiry as it applies in relation to a notice given under section 30 by the Relevant Authority, but subject to sub-paragraph (6).
- (6) A person guilty of an offence under section 31(1) as it applies in accordance with sub-paragraph (5) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (7) Any person who, in purported compliance with a notice given under this paragraph by the person or persons conducting an inquiry, knowingly or recklessly provides any information which is false or misleading in a material particular commits an offence and is liable to the penalties mentioned in sub-paragraph (6).
- (8) Proceedings for an offence under sub-paragraph (7) may be brought only by or with the consent of the Relevant Authority or the Director of Public Prosecutions.”

26 (1) Paragraph 21 of Schedule 1 (power of appointed person to obtain information) is amended as follows.

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- (2) At the end of sub-paragraph (3) (application of section 31 to notice under paragraph 20) add “, but subject to sub-paragraph (4).”
- (3) After sub-paragraph (3) add—
- “(4) A person guilty of an offence under section 31(1) as it applies in accordance with sub-paragraph (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) Any person who, in purported compliance with a notice given under this paragraph by an appointed person, knowingly or recklessly provides any information which is false or misleading in a material particular commits an offence and is liable to the penalties mentioned in sub-paragraph (4).
- (6) Proceedings for an offence under sub-paragraph (5) may be brought only by or with the consent of the Relevant Authority or the Director of Public Prosecutions.”
- (4) The amendments made by this paragraph do not apply in relation to any offence committed or other thing done before the day on which this paragraph comes into force.

## SCHEDULE 12

Section 228(3)

### NEW SCHEDULE 2A TO THE HOUSING ACT 1996

#### “SCHEDULE 2A

Section 51A(7)

#### FURTHER PROVISION ABOUT THE SOCIAL HOUSING OMBUDSMAN FOR WALES

##### *Status*

- 1 The Social Housing Ombudsman for Wales (“the Ombudsman”) shall be a corporation sole.

##### *Remuneration, etc.*

- 2 The National Assembly for Wales may pay to or in respect of the Ombudsman such amounts, by way of remuneration, pensions, allowances or gratuities or by way of provision for any such benefits, as it considers appropriate.

##### *Remuneration, etc.*

- 3 If a person ceases to be the Ombudsman and it appears to the National Assembly for Wales that there are special circumstances which make it right that the person should receive compensation, the National Assembly for Wales may pay to that person a sum of such amount as it considers appropriate.

*Status: Point in time view as at 14/07/2005.*

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#### *Staff and advisers*

- 4 (1) The Ombudsman may appoint such staff as he considers necessary for assisting him in the exercise of his functions.
- (2) The Ombudsman shall include among his staff such persons having a command of the Welsh language as he considers are needed to enable him to investigate complaints in Welsh.
- (3) To assist him in the exercise of his functions, the Ombudsman may obtain advice from any person who, in his opinion, is qualified to give it.
- (4) The Ombudsman may pay to any person from whom he obtains advice under sub-paragraph (3) such fees or allowances as he may determine.

#### *Delegation of functions*

- 5 (1) Any function of the Ombudsman may be exercised by—
- (a) a member of his staff, or
- (b) a member of the staff of the Commission for Local Administration in Wales, if authorised by the Ombudsman for that purpose.
- (2) The Ombudsman may, with the approval of the National Assembly for Wales, make arrangements with persons under which they, or members of their staff, may perform functions of the Ombudsman.
- (3) References in any provision made by or under an enactment to a member of staff of the Ombudsman include any person exercising any function of his by virtue of sub-paragraph (1)(b).

#### *Reports and determinations*

- 6 (1) The Ombudsman—
- (a) shall annually prepare and lay before the National Assembly for Wales a general report on the performance of his functions; and
- (b) may from time to time prepare and lay before the National Assembly for Wales such other reports with respect to his functions as he thinks fit.
- (2) The National Assembly for Wales shall, and the Ombudsman may, publish reports laid before the National Assembly for Wales under sub-paragraph (1).

#### *Reports and determinations*

- 7 The Ombudsman may, subject to any provision made by regulations under section 51B, publish his determination on any complaint.

#### *Reports and determinations*

- 8 (1) The Ombudsman may include in any report or determination published under paragraph 6 or 7 statements, communications, reports, papers or other documentary evidence obtained in the exercise of his functions.
- (2) In publishing any report or determination, the Ombudsman shall have regard to the need for excluding so far as practicable—

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- (a) any matter which relates to the private affairs of an individual, where publication would seriously and prejudicially affect the interests of that individual, and
  - (b) any matter which relates specifically to a social landlord in Wales, where publication would seriously and prejudicially affect its interests,
- unless inclusion of the matter concerned is necessary for the purposes of the report or determination.

#### *Expenses*

- 9 (1) The expenses of the Ombudsman shall, so far as they cannot be met out of income received by him, be met by the National Assembly for Wales.
- (2) Those expenses include any sums payable by the Ombudsman in consequence of a breach, in the course of the performance of any of his functions, of any contractual or other duty (whether that breach occurs by reason of his act or omission or that of a member of his staff or any other person assisting him in the exercise of his functions).

#### *Absolute privilege for communications etc.*

- 10 For the purposes of the law of defamation, absolute privilege attaches to—
- (a) any communication between the Ombudsman and any person by or against whom a complaint is made to him;
  - (b) any determination by the Ombudsman; and
  - (c) the publication by him of any report or such a determination under paragraph 6, 7 or 8.

#### *Disclosure of information*

- 11 (1) Information obtained by the Ombudsman in the course of or for the purposes of an investigation of a complaint must not be disclosed except—
- (a) for the purposes of the investigation, of any determination made in respect of the complaint or of the publication of a determination under paragraph 7;
  - (b) as provided in paragraph 12 or 17 or any regulations under section 51B;
  - (c) for the purposes of any proceedings for an offence of perjury alleged to have been committed in the course of an investigation of a complaint by the Ombudsman; or
  - (d) for the purposes of an inquiry with a view to the taking of any proceedings as mentioned in paragraph (c).
- (2) The Ombudsman shall not be called upon to give evidence in any proceedings (other than proceedings within sub-paragraph (1)(c)) of matters coming to his knowledge in the course of an investigation of a complaint.
- (3) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of sub-paragraph (1) as obtained for the purposes of an investigation and, in relation to such information, the reference in paragraph (a) of that sub-paragraph to the investigation shall have effect as a reference to any investigation.

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### *Disclosure of information*

- 12 The Ombudsman may disclose to the Information Commissioner any information obtained by, or furnished to, the Ombudsman by virtue of or for the purposes of section 51A or 51B if the information appears to him to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
    - (i) Part V of the Data Protection Act 1998 (enforcement),
    - (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
    - (iii) Part IV of that Act (enforcement), or
  - (b) the commission of an offence under—
    - (i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or
    - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).

### *Accounts and audit*

- 13 (1) The Ombudsman shall keep proper accounting records.
- (2) The Ombudsman shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury.
- (3) The directions which the Treasury may give under sub-paragraph (2) include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented,
  - (b) the methods and principles in accordance with which the accounts are to be prepared, and
  - (c) the additional information (if any) that is to accompany the accounts.
- (4) In this paragraph and in paragraph 14, “financial year” means the twelve months ending with 31st March.

### *Accounts and audit*

- 14 (1) The accounts prepared by the Ombudsman for any financial year shall be submitted by him to the Auditor General for Wales no later than the 30th November of the following year.
- (2) The Auditor General for Wales shall—
- (a) examine and certify any accounts submitted to him under this paragraph, and
  - (b) no later than four months after the accounts are submitted to him, lay before the National Assembly for Wales a copy of them as certified by him together with his report on them.
- (3) In examining any accounts submitted to him under this paragraph, the Auditor General for Wales shall, in particular, satisfy himself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

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### *Accounting officer*

- 15 (1) The accounting officer for the Office of the Ombudsman shall be the Ombudsman.
- (2) But where—
- (a) the Ombudsman is incapable of discharging his responsibilities as accounting officer, or
  - (b) the office of the Ombudsman is vacant (and there is no acting Ombudsman),
- the Treasury may designate a member of the Ombudsman’s staff to be the accounting officer for so long as paragraph (a) or (b) applies.
- (3) The accounting officer for the Office of the Ombudsman shall have, in relation to—
- (a) the accounts of the Ombudsman, and
  - (b) the finances of the Office of the Ombudsman,
- the responsibilities which are from time to time specified by the Treasury.
- (4) In this paragraph references to responsibilities include in particular—
- (a) responsibilities in relation to the signing of accounts,
  - (b) responsibilities for the propriety and regularity of the finances of the Office of the Ombudsman, and
  - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Office of the Ombudsman are used.
- (5) The responsibilities which may be specified under this paragraph include responsibilities owed to—
- (a) the National Assembly for Wales, the executive committee or the Audit Committee, or
  - (b) the House of Commons or its Committee of Public Accounts.
- (6) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Office of the Ombudsman, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (7) In this paragraph and paragraphs 16 and 17, “the Office of the Ombudsman” means the Ombudsman and the members of his staff.
- (8) Section 13 of the National Audit Act 1983 (interpretation of references to the Committee of Public Accounts) applies for the purposes of this paragraph as for those of that Act.

### *Examinations into use of resources*

- 16 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Ombudsman has used the resources of the Office of the Ombudsman in discharging his functions.
- (2) Sub-paragraph (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Ombudsman.
- (3) In determining how to exercise his functions under this paragraph, the Auditor General for Wales shall take into account the views of the Audit Committee as to the examinations which he should carry out under this paragraph.

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- (4) The Auditor General for Wales may lay before the National Assembly for Wales a report of the results of any examination carried out by him under this paragraph.
- (5) Section 7 of the National Audit Act 1983 (economy, efficiency and effectiveness examinations by Comptroller and Auditor General) applies to the Ombudsman.
- (6) The Auditor General for Wales and the Comptroller and Auditor General may cooperate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Ombudsman under this paragraph or section 7 of the National Audit Act 1983.

*Examinations into use of resources*

- 17 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Ombudsman, the Comptroller and Auditor General—
  - (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Ombudsman, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
  - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General shall—
  - (a) consult the Auditor General for Wales, and
  - (b) take into account any relevant work done or being done by the Auditor General for Wales,
 before he acts in reliance on sub-paragraph (1) or carries out an examination in respect of the Ombudsman under section 7 of the National Audit Act 1983 (economy etc. examinations).”

SCHEDULE 13

Section 230

RESIDENTIAL PROPERTY TRIBUNALS: PROCEDURE

*Procedure regulations*

- 1 (1) The appropriate national authority may make regulations about the procedure of residential property tribunals.
- (2) Nothing in the following provisions of this Schedule affects the generality of sub-paragraph (1).
- (3) In those provisions—
  - “procedure regulations” means regulations under this paragraph;
  - “tribunal” means a residential property tribunal.

*Status: Point in time view as at 14/07/2005.*

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#### Commencement Information

**I187** Sch. 13 para. 1 wholly in force at 16.6.2006; Sch. 13 para. 1 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 1 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 1 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

#### Appeals

- 2 (1) Procedure regulations may include provision, in relation to applications to tribunals—
- (a) about the form of such applications and the particulars to be contained in them,
  - (b) requiring the service of notices of such applications, and
  - (c) in the case of applications under section 102(4) or (7) or 133(1), requiring the service of copies of the draft orders submitted with the applications.
- (2) Procedure regulations may include provision, in relation to appeals to tribunals—
- (a) about the form of notices of appeal and the particulars to be contained in them, and
  - (b) requiring the service of copies of such notices.
- (3) Procedure regulations may include provision dispensing with the service of the notices or copies mentioned in sub-paragraph (1)(b) or (2)(b) in such cases of urgency as are specified in the regulations.

#### Commencement Information

**I188** Sch. 13 para. 2 wholly in force at 16.6.2006; Sch. 13 para. 2 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 2 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 2 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

#### Transfers

- 3 (1) This paragraph applies where, in any proceedings before a court, there falls for determination a question which a tribunal would have jurisdiction to determine on an application or appeal to the tribunal.
- (2) The court—
- (a) may by order transfer to the tribunal so much of the proceedings as relate to the determination of that question, and
  - (b) may then dispose of all or any remaining proceedings, or adjourn the disposal of all or any remaining proceedings pending the determination of that question by the tribunal, as it thinks fit.
- (3) When the tribunal has determined the question, the court may give effect to the determination in an order of the court.
- (4) Rules of court may prescribe the procedure to be followed in a court in connection with or in consequence of a transfer under this paragraph.
- (5) Procedure regulations may prescribe the procedure to be followed in a tribunal consequent on a transfer under this paragraph.

*Status: Point in time view as at 14/07/2005.*

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- (6) Nothing in this Act affects any power of a court to make an order that could be made by a tribunal (such as an order quashing a licence granted or order made by a local housing authority) in a case where—
- (a) the court has not made a transfer under this paragraph, and
  - (b) the order is made by the court in connection with disposing of any proceedings before it.

#### Commencement Information

**I189** Sch. 13 para. 3 wholly in force at 16.6.2006; Sch. 13 para. 3 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 3 in force for E. at 4.7.2005 by S.I. 2005/1729 , **art. 2(b)** (subject to **art. 3** ); Sch. 13 para. 3 in force for W. at 16.6.2006 by S.I. 2006/1535 , **art. 2(a)** (with Sch. )

#### *Parties etc.*

- 4 (1) Procedure regulations may include provision enabling persons to be joined as parties to the proceedings.
- (2) Procedure regulations may include provision enabling persons who are not parties to proceedings before a tribunal to make oral or written representations to the tribunal.

#### Commencement Information

**I190** Sch. 13 para. 4 wholly in force at 16.6.2006; Sch. 13 para. 4 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 4 in force for E. at 4.7.2005 by S.I. 2005/1729 , **art. 2(b)** (subject to **art. 3** ); Sch. 13 para. 4 in force for W. at 16.6.2006 by S.I. 2006/1535 , **art. 2(a)** (with Sch.)

#### *Information*

- 5 (1) Procedure regulations may include—
- (a) provision relating to the supply of information and documents by a party to the proceedings, and
  - (b) in particular any provision authorised by the following provisions of this paragraph.
- (2) The regulations may include provision for requiring, or empowering the tribunal to require, a party to proceedings before a tribunal—
- (a) to supply to the tribunal information or documents specified, or of a description specified, in the regulations or in an order made by the tribunal;
  - (b) to supply to any other party copies of any information or documents supplied to the tribunal;
  - (c) to supply any such information, documents or copies by such time as is specified in or determined in accordance with the regulations or order.
- (3) The regulations may also include provision—
- (a) for granting a party to the proceedings such disclosure or inspection of documents, or such right to further information, as might be granted by a county court;
  - (b) for requiring persons to attend to give evidence and produce documents;
  - (c) for authorising the administration of oaths to witnesses.

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- (4) The regulations may include provision empowering a tribunal to dismiss, or allow, the whole or part of an appeal or application in a case where a party to the proceedings has failed to comply with—
- (a) a requirement imposed by regulations made by virtue of this paragraph, or
  - (b) an order of the tribunal made by virtue of any such regulations.

#### Commencement Information

**I191** Sch. 13 para. 5 wholly in force at 16.6.2006; Sch. 13 para. 5 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 5 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

#### *Pre-trial reviews etc.*

- 6
- (1) Procedure regulations may include provision for the holding of a pre-trial review (on the application of a party to the proceedings or on the tribunal's own initiative).
  - (2) Procedure regulations may provide for functions of a tribunal in relation to, or at, a pre-trial review to be exercised by a single qualified member of the panel.
  - (3) Procedure regulations may provide for other functions as to preliminary or incidental matters to be exercised by a single qualified member of the panel.
  - (4) For the purposes of this paragraph—
    - (a) a person is a qualified member of the panel if he was appointed to it by the Lord Chancellor; and
    - (b) “the panel” means the panel provided for in Schedule 10 to the Rent Act 1977 (c. 42).

#### Commencement Information

**I192** Sch. 13 para. 6 wholly in force at 16.6.2006; Sch. 13 para. 6 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 6 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 6 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

#### *Interim orders*

- 7
- Procedure regulations may include provision empowering tribunals to make orders, on an interim basis—
- (a) suspending, in whole or in part, the effect of any decision, notice, order or licence which is the subject matter of proceedings before them;
  - (b) granting any remedy which they would have had power to grant in their final decisions.

#### Commencement Information

**I193** Sch. 13 para. 7 wholly in force at 16.6.2006; Sch. 13 para. 7 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 7 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 7 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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### *Additional relief*

- 8 (1) Procedure regulations may include provision as to—
- (a) any additional relief which tribunals may grant in respect of proceedings before them; and
  - (b) the grounds on which such relief may be granted.
- (2) In this paragraph “additional relief” means relief additional to any relief specifically authorised by any provision of Parts 1 to 4 of this Act.

#### **Commencement Information**

**I194** Sch. 13 para. 8 wholly in force at 16.6.2006; Sch. 13 para. 8 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 8 in force for E. at 4.7.2005 by [S.I. 2005/1729](#) , **art. 2(b)** (subject to [art. 3](#) ); Sch. 13 para. 8 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , **art. 2(a)** (with [Sch.](#) )

### *Dismissal*

- 9 Procedure regulations may include provision empowering tribunals to dismiss applications, appeals or transferred proceedings, in whole or in part, on the ground that they are—
- (a) frivolous or vexatious, or
  - (b) otherwise an abuse of process.

#### **Commencement Information**

**I195** Sch. 13 para. 9 wholly in force at 16.6.2006; Sch. 13 para. 9 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 9 in force for E. at 4.7.2005 by [S.I. 2005/1729](#) , **art. 2(b)** (subject to [art. 3](#) ); Sch. 13 para. 9 in force for W. at 16.6.2006 by [S.I. 2006/1535](#) , **art. 2(a)** (with [Sch.](#) )

### *Determination without hearing*

- 10 (1) Procedure regulations may include provision for the determination of applications, appeals or transferred proceedings without an oral hearing.
- (2) Procedure regulations may include provision enabling a single qualified member of the panel to decide whether an oral hearing is appropriate in a particular case.
- (3) Procedure regulations may provide for a single qualified member of the panel to make determinations without an oral hearing.
- (4) For the purposes of this paragraph—
- (a) a person is a qualified member of the panel if he was appointed to it by the Lord Chancellor; and
  - (b) “the panel” means the panel provided for in Schedule 10 to the Rent Act 1977 (c. 42).

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#### Commencement Information

**II96** Sch. 13 para. 10 wholly in force at 16.6.2006; Sch. 13 para. 10 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 10 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 10 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

#### Fees

- 11
- (1) Procedure regulations may include provision requiring the payment of fees in respect of applications, appeals or transfers of proceedings to, or oral hearings by, tribunals.
  - (2) The fees payable shall be such as are specified in or determined in accordance with procedure regulations.
  - (3) But the fee (or, where fees are payable in respect of both an application, appeal or transfer and an oral hearing, the aggregate of the fees) payable by a person in respect of any proceedings must not exceed—
    - (a) £500, or
    - (b) such other amount as may be specified in procedure regulations.
  - (4) Procedure regulations may empower a tribunal to require a party to proceedings before it to reimburse another party to the proceedings the whole or any part of any fees paid by him.
  - (5) Procedure regulations may provide for the reduction or waiver of fees by reference to the financial resources of the party by whom they are to be paid or met.
  - (6) If they do so they may apply, subject to such modifications as may be specified in the regulations, any other statutory means-testing regime as it has effect from time to time.

#### Commencement Information

**II97** Sch. 13 para. 11 wholly in force at 16.6.2006; Sch. 13 para. 11 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 11 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(b) (subject to art. 3); Sch. 13 para. 11 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

#### Costs

- 12
- (1) A tribunal may determine that a party to proceedings before it is to pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
  - (2) The circumstances are where—
    - (a) he has failed to comply with an order made by the tribunal;
    - (b) in accordance with regulations made by virtue of paragraph 5(4), the tribunal dismisses, or allows, the whole or part of an application or appeal by reason of his failure to comply with a requirement imposed by regulations made by virtue of paragraph 5;
    - (c) in accordance with regulations made by virtue of paragraph 9, the tribunal dismisses the whole or part of an application or appeal made by him to the tribunal; or

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- (d) he has, in the opinion of the tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph must not exceed—
  - (a) £500, or
  - (b) such other amount as may be specified in procedure regulations.
- (4) A person may not be required to pay costs incurred by another person in connection with proceedings before a tribunal, except—
  - (a) by a determination under this paragraph, or
  - (b) in accordance with provision made by any enactment other than this paragraph.

**Commencement Information**

**I198** Sch. 13 para. 12 wholly in force at 16.6.2006; Sch. 13 para. 12 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 12 in force for E. at 4.7.2005 by [S.I. 2005/1729](#), **art. 2(b)** (subject to **art. 3**); Sch. 13 para. 12 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

*Enforcement*

- 13 Procedure regulations may provide for decisions of tribunals to be enforceable, with the permission of a county court, in the same way as orders of such a court.

**Commencement Information**

**I199** Sch. 13 para. 13 wholly in force at 16.6.2006; Sch. 13 para. 13 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 13 para. 13 in force for E. at 4.7.2005 by [S.I. 2005/1729](#), **art. 2(b)** (subject to **art. 3**); Sch. 13 para. 13 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

SCHEDULE 14

Section 254

BUILDINGS WHICH ARE NOT HMOs FOR PURPOSES OF THIS ACT (EXCLUDING PART 1)

*Introduction: buildings (or parts) which are not  
 HMOs for purposes of this Act (excluding Part 1)*

- 1 (1) The following paragraphs list buildings which are not houses in multiple occupation for any purposes of this Act other than those of Part 1.
- (2) In this Schedule “building” includes a part of a building.

*Buildings controlled or managed by public sector bodies etc.*

- 2 (1) A building where the person managing or having control of it is—
- (a) a local housing authority,

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (b) a body which is registered as a social landlord under Part 1 of the Housing Act 1996 (c. 52),
  - (c) a police authority established under section 3 of the Police Act 1996 (c. 16),
  - (d) the Metropolitan Police Authority established under section 5B of that Act,
  - (e) a fire and rescue authority, or
  - (f) a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990 (c. 19).
- (2) In sub-paragraph (1)(e) “fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004 (c. 21).

*Buildings regulated otherwise than under this Act*

- 3 Any building whose occupation is regulated otherwise than by or under this Act and which is of a description specified for the purposes of this paragraph in regulations made by the appropriate national authority.

*Buildings occupied by students*

- 4 (1) Any building—
- (a) which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a specified description, and
  - (b) where the person managing or having control of it is the educational establishment in question or a specified person or a person of a specified description.
- (2) In sub-paragraph (1) “specified” means specified for the purposes of this paragraph in regulations made by the appropriate national authority.
- (3) Sub-paragraph (4) applies in connection with any decision by the appropriate national authority as to whether to make, or revoke, any regulations specifying—
- (a) a particular educational establishment, or
  - (b) a particular description of educational establishments.
- (4) The appropriate national authority may have regard to the extent to which, in its opinion—
- (a) the management by or on behalf of the establishment in question of any building or buildings occupied for connected educational purposes is in conformity with any code of practice for the time being approved under section 233 which appears to the authority to be relevant, or
  - (b) the management of such buildings by or on behalf of establishments of the description in question is in general in conformity with any such code of practice,
- as the case may be.
- (5) In sub-paragraph (4) “occupied for connected educational purposes”, in relation to a building managed by or on behalf of an educational establishment, means occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at the establishment.

*Status: Point in time view as at 14/07/2005.*

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**Commencement Information**

**I200** Sch. 14 para. 4 wholly in force at 18.1.2005; Sch. 14 para. 4 in force at Royal Assent for specified purposes and otherwise at 18.1.2005 see s. 270

*Buildings occupied by religious communities*

- 5 (1) Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering.
- (2) This paragraph does not apply in the case of a converted block of flats to which section 257 applies.

*Buildings occupied by owners*

- 6 (1) Any building which is occupied only by persons within the following paragraphs—
- (a) one or more persons who have, whether in the whole or any part of it, either the freehold estate or a leasehold interest granted for a term of more than 21 years;
  - (b) any member of the household of such a person or persons;
  - (c) no more than such number of other persons as is specified for the purposes of this paragraph in regulations made by the appropriate national authority.
- (2) This paragraph does not apply in the case of a converted block of flats to which section 257 applies, except for the purpose of determining the status of any flat in the block.

**Commencement Information**

**I201** Sch. 14 wholly in force at 18.1.2005; Sch. 14 para. 6 in force at Royal Assent for specified purposes and otherwise at 18.1.2005 and Sch. 14 in force at 18.1.2005 see s. 270

*Buildings occupied by two persons*

- 7 Any building which is occupied only by two persons who form two households.

SCHEDULE 15

Section 265(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

*Parliamentary Commissioner Act 1967 (c. 13)*

- 1 (1) Section 11A of the Parliamentary Commissioner Act 1967 (consultation between Parliamentary Commissioner and Welsh Administration Ombudsman or Health Service Commissioners) is amended as follows.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

- (2) In the sidenote for “Welsh Administration Ombudsman or Health Service Commissioners” substitute “other Commissioners or Ombudsmen”.
- (3) In subsection (1)—
  - (a) after “Ombudsman” insert “, of the Social Housing Ombudsman for Wales”; and
  - (b) in paragraph (b) for “or” substitute “, under regulations under section 51B of the Housing Act 1996 or under”.
- (4) In subsection (2) after “Ombudsman” insert “, the Social Housing Ombudsman for Wales”.

#### Commencement Information

**I202** Sch. 15 para. 1 partly in force; Sch. 15 para. 1 not in force at Royal Assent see s. 270(2)(3); Sch. 15 para. 1 in force for W. at 14.7.2005 by S.I. 2005/1814, art. 2(f)(i)

VALID FROM 06/04/2006

#### *Land Compensation Act 1973 (c. 26)*

- 2 The Land Compensation Act 1973 has effect subject to the following amendments.

#### Commencement Information

**I203** Sch. 15 para. 2 wholly in force at 16.6.2006; Sch. 15 para. 2 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 2 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 2 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(b) (with Sch.)

- 3
- (1) Section 29 (right to home loss payment where person displaced from dwelling) is amended as follows.
  - (2) In subsection (1)—
    - (a) for paragraph (b) substitute—

“(b) the making of a housing order in respect of the dwelling;”;
    - and
    - (b) in paragraph (ii) for the words from “the order” onwards substitute “the housing order;”.
  - (3) In subsection (3A) for the words from “the acceptance” onwards substitute “the carrying out of any improvement to the dwelling unless he is permanently displaced from it in consequence of the carrying out of that improvement.”
  - (4) For subsection (7) substitute—

“(7) In this section “a housing order” means—

    - (a) a prohibition order under section 20 or 21 of the Housing Act 2004, or
    - (b) a demolition order under section 265 of the Housing Act 1985.”

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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

**I204** Sch. 15 para. 3 wholly in force at 16.6.2006; Sch. 15 para. 3 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 3 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 3 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(b) (with Sch.)

- 4 (1) Section 33D (loss payments: exclusions) is amended as follows.
- (2) In subsection (4) for paragraphs (b) and (c) substitute—
- “(b) notice under section 11 of the Housing Act 2004 (improvement notice relating to category 1 hazard);
- (c) notice under section 12 of that Act (improvement notice relating to category 2 hazard);”.
- (3) For subsection (5) substitute—
- “(5) These are the orders—
- (a) an order under section 20 of the Housing Act 2004 (prohibition order relating to category 1 hazard);
- (b) an order under section 21 of that Act (prohibition order relating to category 2 hazard);
- (c) an order under section 43 of that Act (emergency prohibition orders);
- (d) an order under section 265 of the Housing Act 1985 (demolition order relating to category 1 or 2 hazard).”

#### Commencement Information

**I205** Sch. 15 para. 4 wholly in force at 16.6.2006; Sch. 15 para. 4 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 4 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 4 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(b) (with Sch.)

- 5 (1) Section 37 (disturbance payments for persons with compensatable interests) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (b) substitute—
- “(b) the making of a housing order in respect of a house or building on the land;”;
- (b) in paragraph (ii) for the words from “the order” onwards substitute “the housing order;”.
- (3) In subsection (2)(c) for “closing” substitute “prohibition”.
- (4) In subsection (3) for the words from “any such order” onwards substitute “a housing order within paragraph (b) of that subsection unless he was in lawful possession as aforesaid at the time when the order was made.”
- (5) In subsection (3A) for the words from “the acceptance” onwards substitute “the carrying out of any improvement to a house or building unless he is permanently displaced in consequence of the carrying out of that improvement.”
- (6) In subsection (9) omit “or undertaking”.

*Status: Point in time view as at 14/07/2005.*

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#### Commencement Information

**I206** Sch. 15 para. 5 wholly in force at 16.6.2006; Sch. 15 para. 5 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(b) (with Sch.)

- 6
- (1) Section 39 (duty to rehouse residential occupiers) is amended as follows.
  - (2) In subsection (1) for paragraph (b) substitute—
    - “(b) the making of a housing order in respect of a house or building on the land;”.
  - (3) In subsection (6) for the words from “any such order” onwards substitute “ a housing order within paragraph (b) of that subsection unless he was residing in the accommodation in question at the time when the order was made. ”
  - (4) In subsection (6A) for the words from “the acceptance” onwards substitute “ the carrying out of any improvement to a house or building unless he is permanently displaced from the residential accommodation in question in consequence of the carrying out of that improvement. ”
  - (5) In subsection (9) omit “or undertaking”.

#### Commencement Information

**I207** Sch. 15 para. 6 wholly in force at 16.6.2006; Sch. 15 para. 6 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 6 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 6 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(b) (with Sch.)

#### *Local Government Act 1974 (c. 7)*

- 7
- (1) Section 33 of the Local Government Act 1974 (consultation between the Local Commissioner, other commissioners and the Welsh Administration Ombudsman) is amended as follows.
  - (2) In the sidenote for “the Parliamentary Commissioner and the Health Service Commissioners” substitute “ and other Commissioners and Ombudsmen ”.
  - (3) In subsection (1)—
    - (a) after paragraph (a) insert—
      - “(aza) by the Social Housing Ombudsman for Wales, in accordance with regulations under section 51B of the Housing Act 1996;”;
    - (b) omit “the” after “appropriate Commissioner or”; and
    - (c) after “the Act of 1967” insert “ , under the Housing Act 1996 ”.
  - (4) In subsection (2)—
    - (a) after “Parliamentary Commissioner” insert “ , the Social Housing Ombudsman for Wales ”; and
    - (b) omit “the” after “that Commissioner or”.

*Status: Point in time view as at 14/07/2005.*

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(5) In subsection (5) after “1967” insert “ , in paragraph 13(1) of Schedule 2A to the Housing Act 1996 ”.

**Commencement Information**

**I208** Sch. 15 para. 7 partly in force; Sch. 15 para. 7 not in force at Royal Assent see s. 270(2)(3); Sch. 15 para. 7(1)(2)(3)(a)(c)(4)(a)(5) in force for W. at 14.7.2005 by S.I. 2005/1814, art. 2(f)(ii)

VALID FROM 06/04/2006

*Greater London Council (General Powers) Act 1981 (c. xvii)*

8

In section 9(1) of the Greater London Council (General Powers) Act 1981—

- (a) for the words from “a registration scheme” to “section 354 of that Act,” substitute “ a licence under Part 2 of the Housing Act 2004 ”; and
- (b) for “358” substitute “ 134 ”.

**Commencement Information**

**I209** Sch. 15 para. 8 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 8 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.)

VALID FROM 06/04/2006

*Mobile Homes Act 1983 (c. 34)*

9

In section 2 of the Mobile Homes Act 1983 (terms of agreements) after subsection (4) insert—

“(5) The supplementary provisions in Part 3 of Schedule 1 to this Act have effect for the purposes of paragraphs 8 and 9 of Part 1 of that Schedule.”

**Commencement Information**

**I210** Sch. 15 para. 9 wholly in force at 16.6.2006; Sch. 15 para. 9 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 9 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 9 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

*Housing Act 1985 (c. 68)*

VALID FROM 06/04/2006

10

The Housing Act 1985 has effect subject to the following amendments.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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

**I211** Sch. 15 para. 10 wholly in force at 16.6.2006; Sch. 15 para. 10 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 10 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 10 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

11 In section 8(2) (periodical review of housing needs) for “section 605” substitute “section 3 of the Housing Act 2004”.

#### Commencement Information

**I212** Sch. 15 para. 11 wholly in force at 16.6.2006; Sch. 15 para. 11 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 11 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 11 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

12 For section 252(c) (definition of “house in multiple occupation” for purposes of Part 8) substitute—  
“(c) “house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act), but does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household.”

#### Commencement Information

**I213** Sch. 15 para. 12 wholly in force at 16.6.2006; Sch. 15 para. 12 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 12 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 12 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

13 For section 268 (service of notice of demolition and closing orders) substitute—  
**“268 Service of copies of demolition order**  
(1) A local housing authority who have made a demolition order must serve a copy of the order on every person who, to their knowledge, is—  
(a) an owner or occupier of the whole or part of the premises to which the order relates,

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- (b) authorised to permit persons to occupy the whole or part of those premises, or
  - (c) a mortgagee of the whole or part of the premises.
- (2) The copies required to be served under subsection (1) shall be served within the period of seven days beginning with the day on which the order is made.
- (3) A copy of the order is to be regarded as having been served on every occupier in accordance with subsections (1) and (2) if a copy of the order is fixed to some conspicuous part of the premises within the period of seven days mentioned in subsection (2).
- (4) A demolition order against which no appeal is brought under section 269 becomes operative at the end of the period of 28 days beginning with the day on which the order is made and is final and conclusive as to matters which could be raised on an appeal.
- (5) Section 246 of the Housing Act 2004 (service of notices)—
- (a) applies in relation to copies required to be served under this section (instead of section 617 below), and
  - (b) so applies as it applies in relation to documents required to be served under any provision of Parts 1 to 4 of that Act.”

#### Commencement Information

**I214** Sch. 15 para. 13 wholly in force at 16.6.2006; Sch. 15 para. 13 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 13 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 13 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 14 In section 269(1) (right of appeal against demolition or closing order) for the words from “demolition or closing order” to “the order,” substitute “demolition order may, within the period of 28 days beginning with the day on which the order is made,”.

#### Commencement Information

**I215** Sch. 15 para. 14 wholly in force at 16.6.2006; Sch. 15 para. 14 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 14 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 14 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 15 After section 269 insert—

*Status: Point in time view as at 14/07/2005.*

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### “269A Appeals suggesting certain other courses of action

- (1) One ground of appeal under section 269 in relation to a demolition order made under section 265 is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (2) The courses of action are—
  - (a) serving an improvement notice under section 11 or 12 of the Housing Act 2004;
  - (b) making a prohibition order under section 20 or 21 of that Act;
  - (c) serving a hazard awareness notice under section 28 or 29 of that Act; or
  - (d) declaring the area in which the premises concerned are situated to be a clearance area in accordance with section 289 of this Act.
- (3) Subsection (4) applies where—
  - (a) a residential property tribunal is hearing an appeal under section 269 in relation to a demolition order made under section 265; and
  - (b) the grounds on which the appeal is brought are or include the ground that a course of action mentioned in subsection (2) is the best course of action in relation to each hazard concerned.
- (4) The tribunal shall have regard to any guidance given to the local housing authority under section 9 of the Housing Act 2004.
- (5) Subsection (6) applies where—
  - (a) an appeal under section 269 is allowed against a demolition order made under section 265; and
  - (b) the reason or one of the reasons for allowing the appeal is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (6) The tribunal shall, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.
- (7) Subsection (1) of this section is without prejudice to the generality of section 269.”

#### Commencement Information

**I216** Sch. 15 para. 15 wholly in force at 16.6.2006; Sch. 15 para. 15 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 15 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 15 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

16 In section 274 (demolition orders: power to permit reconstruction of condemned house) for subsections (2) to (5) substitute—

“(2) If the authority are satisfied that the result of the works will be—

*Status: Point in time view as at 14/07/2005.*

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- (a) in the case of a demolition order made under section 265(1) or (2), that the hazard concerned ceases to be a category 1 hazard, or
  - (b) in the case of a demolition order made under section 265(3) or (4), that a prescribed state of affairs exists,
- they may, in order that the person submitting the proposals may have an opportunity of carrying out the works, extend for such period as they may specify the time within which the owner of the premises is required under section 271 to demolish them.
- (3) In subsection (2) “prescribed state of affairs” means such state of affairs as may be specified or described in an order made by the Secretary of State.
  - (4) An order under subsection (3)—
    - (a) may make different provision for different cases or descriptions of case (including different provision for different areas);
    - (b) may contain such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate; and
    - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (5) That time may be further extended by the authority, once or more often as the case may require, if—
    - (a) the works have begun and appear to the authority to be making satisfactory progress, or
    - (b) though they have not begun, the authority think there has been no unreasonable delay.
  - (6) Where the authority determine to extend, or further extend, the time within which the owner of any premises is required under section 271 to demolish them, notice of the determination shall be served by the authority on every person having an interest in the premises or part of the premises, whether as freeholder, mortgagee or otherwise.
  - (7) If the works are completed to the satisfaction of the authority they shall revoke the demolition order (but without prejudice to any subsequent proceedings under this Part or Part 1 of the Housing Act 2004).”

#### Commencement Information

**I217** Sch. 15 para. 16 wholly in force at 16.6.2006; Sch. 15 para. 16 in force for certain purposes at Royal Assent see s. 270(2)(b); Sch. 15 para. 16 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 16 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

*Status: Point in time view as at 14/07/2005.*

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#### **“274A Effect of certain enforcement action under the Housing Act 2004**

A demolition order which has been made in respect of any premises shall cease to have effect if a management order under Chapter 1 or 2 of Part 4 of the Housing Act 2004 comes into force in relation to the premises.”

#### **Commencement Information**

**I218** Sch. 15 para. 17 wholly in force at 16.6.2006; Sch. 15 para. 17 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 17 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 17 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

18 For section 275 (demolition orders: substitution of closing orders) substitute—

#### **“275 Demolition orders: substitution of prohibition order to permit use otherwise than for human habitation**

- (1) If—
- (a) an owner of any premises in respect of which a demolition order has become operative, or
  - (b) any other person who has an interest in the premises,
- submits proposals to the local housing authority for the use of the premises for a purpose other than human habitation, the authority may, if they think fit, determine the demolition order and make a prohibition order under section 20 or 21 of the Housing Act 2004 in respect of the hazard concerned.
- (2) The authority shall serve notice that the demolition order has been determined, and a copy of the prohibition order, on every person on whom they are required by Part 1 of Schedule 2 to the Housing Act 2004 to serve a copy of the prohibition order.”

#### **Commencement Information**

**I219** Sch. 15 para. 18 wholly in force at 16.6.2006; Sch. 15 para. 18 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 18 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 18 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 19 (1) Section 289 (declaration of clearance area) is amended as follows.
- (2) In subsection (2F)(b) for “are unfit for human habitation” substitute “ contain category 1 or category 2 hazards ”.
- (3) In subsection (3)—

*Status: Point in time view as at 14/07/2005.*

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- (a) in sub-paragraph (i), for the words from “unfit” to “health” substitute “dangerous or harmful to health or safety”; and
- (b) in sub-paragraph (ii), for “injurious to health” substitute “harmful to health or safety”.

#### Commencement Information

**I220** Sch. 15 para. 19 wholly in force at 16.6.2006; Sch. 15 para. 19 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 19 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 19 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

20 For section 300 (purchase of houses liable to be demolished or closed) substitute—

**“300 Purchase of houses liable to be demolished or to be subject to a prohibition order**

- (1) Where—
  - (a) the local housing authority would be required under section 5 of the Housing Act 2004 to make a demolition order under section 265(1) or (2) of this Act in respect of a dwelling, a house in multiple occupation or a building containing one or more flats, and
  - (b) it appears to them that the dwelling, house in multiple occupation or, as the case may be, building is or can be rendered capable of providing accommodation of a standard which is adequate for the time being,
 they may purchase it instead.
- (2) Where—
  - (a) the local housing authority would be required under section 5 of the Housing Act 2004 to make a relevant prohibition order in respect of a dwelling, a house in multiple occupation or a building containing one or more flats, and
  - (b) it appears to them that the dwelling, house in multiple occupation or, as the case may be, building is or can be rendered capable of providing accommodation of a standard which is adequate for the time being,
 they may purchase it instead.
- (3) In subsection (2) “relevant prohibition order” means a prohibition order under section 20 of the Housing Act 2004 which imposes in relation to the whole of the dwelling, house in multiple occupation or building a prohibition on its use for all purposes other than any purpose approved by the authority.
- (4) Where an authority have determined to purchase any premises under subsection (1)—

*Status: Point in time view as at 14/07/2005.*

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- (a) they shall serve a notice of their determination on the persons on whom they would have been required by section 268(1) to serve a copy of a demolition order, and
  - (b) sections 268(4) and 269(1), (2), (3) and (6) (operative date and right of appeal) apply to such a notice as they apply to a demolition order.
- (5) Where an authority have determined to purchase any premises under subsection (2)—
- (a) they shall serve a notice of their determination on the persons on whom they would have been required by Part 1 of Schedule 2 to the Housing Act 2004 (service of prohibition orders) to serve a copy of the relevant prohibition order; and
  - (b) section 24 of that Act and Parts 1 and 3 of that Schedule (operative date, right of appeal etc.) apply to such a notice as they apply to a prohibition order which is not suspended or to appeals against such an order (as the case may be).
- (6) At any time after the notice has become operative the authority may purchase the dwelling, house in multiple occupation or building by agreement or be authorised by the Secretary of State to purchase it compulsorily.
- (7) This section does not apply where section 304(1) applies (listed building or building protected pending listing).”

#### Commencement Information

**I221** Sch. 15 para. 20 wholly in force at 16.6.2006; Sch. 15 para. 20 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 20 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 20 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

21 For section 304 (closing orders in relation to listed buildings) substitute—

#### “304 Demolition order not to be made in respect of listed building

- (1) A local housing authority shall not make a demolition order under section 265 (power to make a demolition order) in respect of a listed building.
- (2) Where a dwelling, house in multiple occupation or building in respect of which a demolition order has been made becomes a listed building, the local housing authority shall determine the order (whether or not it has become operative).
- (3) The local housing authority shall serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a new demolition order in relation to the premises.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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) The Secretary of State may give notice in respect of a dwelling, house in multiple occupation or building to the local housing authority stating that its architectural or historic interest is sufficient to render it inexpedient that it should be demolished pending determination of the question whether it should be a listed building; and the provisions of this section apply to a dwelling, house in multiple occupation or building in respect of which such a notice is in force as they apply to a listed building.”

#### Commencement Information

**I222** Sch. 15 para. 21 wholly in force at 16.6.2006; Sch. 15 para. 21 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 21 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 21 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 22 In section 307(1) (saving for rights arising from breach of covenant etc.) for the words from “relating to” to “prejudices” substitute “ relating to the demolition or purchase of unfit premises prejudices ”.

#### Commencement Information

**I223** Sch. 15 para. 22 wholly in force at 16.6.2006; Sch. 15 para. 22 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 22 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 22 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 23 In section 308(3) (approval of owner’s proposals for re-development)—
- (a) after “Part” insert “ or Chapter 2 of Part 1 of the Housing Act 2004 ”; and
  - (b) for “, closing or purchase of unfit premises” substitute “ or purchase of premises or the prohibition of uses of premises ”.

#### Commencement Information

**I224** Sch. 15 para. 23 wholly in force at 16.6.2006; Sch. 15 para. 23 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 23 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 23 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 24 Omit section 310 (certificate of fitness for human habitation resulting from owner’s improvements or alterations).

*Status: Point in time view as at 14/07/2005.*

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#### Commencement Information

**I225** Sch. 15 para. 24 wholly in force at 16.6.2006; Sch. 15 para. 24 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 24 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 24 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 25 In section 318(1)(a) (power of court to authorise execution of works on unfit premises or for improvement)—
- (a) for “dwelling-houses” substitute “ dwellings ”; and
  - (b) for “injurious to health or unfit for human habitation” substitute “ harmful to health or safety ”.

#### Commencement Information

**I226** Sch. 15 para. 25 wholly in force at 16.6.2006; Sch. 15 para. 25 not in force at Royal Assent see s. 270(2)(3); Sch. 15 para. 25 in force for E. at 6.4.2006 by S. I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 25 in force for W. at 16.6.2006 by S. I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

- 26 For section 322 substitute—
- “322 Minor definitions**
- (1) In this Part the following expressions have the same meaning as in Part 1 of the Housing Act 2004 (see sections 1(5) to (7) and 2(1) of that Act)—
    - “building containing one or more flats”,
    - “category 1 hazard”,
    - “category 2 hazard”,
    - “common parts”, in relation to a building containing one or more flats,
    - “dwelling”,
    - “flat”,
    - “hazard”.
  - (2) In this Part—
    - “health” includes mental health;
    - “house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act);
    - “owner”, in relation to premises—

*Status: Point in time view as at 14/07/2005.*

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- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in premises, whether in possession or reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years;

“premises” in relation to a demolition order, means the dwelling, house in multiple occupation or building in respect of which the order is made.

- (3) This Part applies to unoccupied HMO accommodation (as defined by section 1(5) of the Housing Act 2004) as it applies to a house in multiple occupation, and references to a house in multiple occupation in this Part are to be read accordingly.”

#### Commencement Information

**I227** Sch. 15 para. 26 wholly in force at 16.6.2006; Sch. 15 para. 26 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 26 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 26 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

27 In section 323 (index of defined expressions: Part 9) insert at the appropriate places—

“building containing one or more flats	section 322”
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“category 1 hazard	section 322”
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“category 2 hazard	section 322”
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“common parts	section 322”
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“dwelling	section 322”
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“hazard	section 322”
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“health	section 322”
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*Status: Point in time view as at 14/07/2005.*

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“residential property tribunal                      section 229 of the Housing Act 2004”.

**Commencement Information**

**I228** Sch. 15 para. 27 wholly in force at 16.6.2006; Sch. 15 para. 27 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 27 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 27 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

28                      In section 439 (requirements as to fitness of premises before advancing money for certain purposes), omit subsections (1) and (2).

**Commencement Information**

**I229** Sch. 15 para. 28 wholly in force at 16.6.2006; Sch. 15 para. 28 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 28 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 28 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

29                      In section 582 (compulsory purchase orders: restriction on recovery of possession of houses in multiple occupation) for subsection (8) substitute—  
                                 “(8) In this section “house in multiple occupation” has the meaning given by sections 254 to 259 of the Housing Act 2004 for the purposes of that Act (other than Part 1).”

**Commencement Information**

**I230** Sch. 15 para. 29 wholly in force at 16.6.2006; Sch. 15 para. 29 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 29 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 29 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

30                      For section 584A (compensation payable in case of closing and demolition orders) substitute—

**“584A Compensation payable in case of prohibition and demolition orders**

(1) Subject to subsection (3), where a relevant prohibition order becomes operative in respect of any premises or a demolition order under section 265 is made in respect of any premises, the local housing authority shall pay to every owner of the premises an amount determined in accordance with subsection (2).

*Status: Point in time view as at 14/07/2005.*

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- (2) The amount referred to in subsection (1) is the diminution in the compulsory purchase value of the owner's interest in the premises as a result of the coming into operation of the relevant prohibition order or, as the case may be, the making of the demolition order; and that amount—
- (a) shall be determined as at the date of the coming into operation or making of the order in question; and
  - (b) shall be determined (in default of agreement) as if it were compensation payable in respect of the compulsory purchase of the interest in question and shall be dealt with accordingly.
- (3) In any case where—
- (a) a relevant prohibition order has been made in respect of any premises, and
  - (b) that order is revoked and a demolition order is made in its place,
- the amount payable to the owner under subsection (1) in connection with the demolition order shall be reduced by the amount (if any) paid to the owner or a previous owner under that subsection in connection with the relevant prohibition order.
- (4) For the purposes of this section—
- “compulsory purchase value”, in relation to an owner's interest in premises, means the compensation which would be payable in respect of the compulsory purchase of that interest if it fell to be assessed in accordance with the Land Compensation Act 1961;
- “premises”, in relation to a demolition order, has the meaning given by section 322;
- “premises”, in relation to a prohibition order, means premises which are specified premises in relation to the order within the meaning of Part 1 of the Housing Act 2004;
- “relevant prohibition order” means a prohibition order under section 20 or 21 of the Housing Act 2004 which imposes in relation to the whole of any premises a prohibition on their use for all purposes other than any purpose approved by the authority.”

#### Commencement Information

**I231** Sch. 15 para. 30 wholly in force at 16.6.2006; Sch. 15 para. 30 not in force at Royal Assent see s. 270(4) (5); Sch. 15 para. 30 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 30 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

31 For section 584B (repayment on revocation of demolition or closing order) substitute—

*Status: Point in time view as at 14/07/2005.*

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#### **“584B Repayment on revocation of demolition or prohibition order**

(1) Where a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a demolition order or relevant prohibition order and—

- (a) the demolition order is revoked under section 274 (revocation of demolition order to permit reconstruction of premises), or
- (b) the relevant prohibition order is revoked under section 25(1) or (2) of the Housing Act 2004,

then, if at that time the person to whom the payment was made has the same interest in the premises as he had at the time the payment was made, he shall on demand repay to the authority the amount of the payment.

(2) In any case where—

- (a) a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a relevant prohibition order, and
- (b) by virtue of section 25(3) of the Housing Act 2004, the order is revoked as respects part of the premises and not varied, and
- (c) the person to whom the payment was made (in this section referred to as “the recipient”) had at the time the payment was made, an owner’s interest in the part of the premises concerned (whether or not he had such an interest in the rest of the premises),

then, if at the time of the revocation of the relevant prohibition order the recipient has the same interest in the premises as he had at the time the payment was made, he shall on demand pay to the authority an amount determined in accordance with subsections (4), (5) and (6).

(3) In any case where—

- (a) a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a relevant prohibition order, and
- (b) by virtue of section 25(4) of the Housing Act 2004, the order is varied,

then, if at the time of the variation of the order the recipient has the same interest in the premises as he had at the time the payment was made, he shall on demand pay to the authority an amount determined in accordance with subsections (4), (5) and (6).

(4) The amount referred to in subsection (2) or (3) is whichever is the less of—

- (a) the amount by which the value of the interest of the recipient in the premises increases as a result of the revocation or variation of the relevant prohibition order; and
- (b) the amount paid to the recipient under section 584A(1) in respect of his interest in the premises;

and the amount referred to in paragraph (a) shall be determined as at the date of the revocation or variation of the relevant prohibition order.

(5) For the purpose of assessing the amount referred to in subsection (4)(a), the rules set out in section 5 of the Land Compensation Act 1961 shall, so

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far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

- (6) Any dispute as to the amount referred to in subsection (4)(a) shall be referred to and determined by the Lands Tribunal; and section 2 and subsections (1)(a) and (4) to (6) of section 4 of the Land Compensation Act 1961 shall, subject to any necessary modifications, apply for the purposes of this section as they apply for the purposes of that Act.
- (7) In this section “premises” and “relevant prohibition order” have the same meaning as in section 584A.”

#### Commencement Information

**I232** Sch. 15 para. 31 wholly in force at 16.6.2006; Sch. 15 para. 31 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 31 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 31 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

#### *Landlord and Tenant Act 1985 (c. 70)*

- 32 (1) Section 20C of the Landlord and Tenant Act 1985 (limitation of service charges: costs of proceedings) is amended as follows.
- (2) In subsection (1) after “a court” insert “, residential property tribunal”.
- (3) In subsection (2) after paragraph (a) insert—
- “(aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;”.

#### Commencement Information

**I233** Sch. 15 para. 32 wholly in force at 16.6.2006; Sch. 15 para. 32 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 32 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 32 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

#### *Housing Act 1988 (c. 50)*

- 33 In paragraph 47 of Schedule 17 to the Housing Act 1988 (amendments of Part 9 of Housing Act 1985) for “sections 264(5), 270(3), 276 and 286(3)” substitute “section 270(3)”.

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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

**I234** Sch. 15 para. 33 wholly in force at 16.6.2006; Sch. 15 para. 33 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 33 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 33 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

#### *Local Government and Housing Act 1989 (c. 42)*

VALID FROM 06/04/2006

- 34 In section 100 of the Local Government and Housing Act 1989 (interpretation of Part 7) for the definition of “house in multiple occupation” substitute—
- ““house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act), but does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household;”.

#### Commencement Information

**I235** Sch. 15 para. 34 wholly in force at 16.6.2006; Sch. 15 para. 34 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 34 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 34 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

- 35 In section 195(2) of that Act (short title, commencement and extent) for “167” substitute “ 168 ”.

#### Commencement Information

**I236** Sch. 15 para. 35 wholly in force at 6.4.2006; Sch. 15 para. 35 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 35 in force for W. at 14.7.2005 by S.I. 2005/1814, art. 2(f)(iii); Sch. 15 para. 35 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.)

VALID FROM 06/04/2006

#### *Water Industry Act 1991 (c. 56)*

- 36 For paragraph 2(2) of Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges) substitute—
- “(2) In this paragraph “house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act).”

*Status: Point in time view as at 14/07/2005.*

*Changes to legislation: Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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

**I237** Sch. 15 para. 36 wholly in force at 16.6.2006; Sch. 15 para. 36 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 36 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 36 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

#### *Health Service Commissioners Act 1993 (c. 46)*

- 37 (1) Section 18 of the Health Service Commissioners Act 1993 (consultation during investigations) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or” at the end of paragraph (c);
  - (b) at the end of paragraph (d) insert “or
  - (e) by the Social Housing Ombudsman for Wales under regulations under section 51B of the Housing Act 1996,”;
  - (c) omit “the” after “appropriate Commissioner or”; and
  - (d) omit “the” after “that Commissioner or”.
- (3) In subsection (2) omit “the Welsh Administration”.

#### Commencement Information

**I238** Sch. 15 para. 37 partly in force; Sch. 15 para. 37 not in force at Royal Assent see s. 270(2)(3); Sch. 15 para. 37(1)(2)(a)(b)(3) in force for W. at 14.7.2005 by S.I. 2005/1814, art. 2(f)(iv)

VALID FROM 06/04/2006

#### *Home Energy Conservation Act 1995 (c. 10)*

- 38 For paragraph (aa)(i) of the definition of “residential accommodation” in section 1(1) of the Home Energy Conservation Act 1995 (interpretation) substitute—
- “(i) in England and Wales, a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act),”.

#### Commencement Information

**I239** Sch. 15 para. 38 wholly in force at 16.6.2006; Sch. 15 para. 38 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 38 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 38 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

*Status: Point in time view as at 14/07/2005.*

**Changes to legislation:** *Housing Act 2004 is up to date with all changes known to be in force on or before 09 September 2023. 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)*

VALID FROM 06/04/2006

*Gas Act 1995 (c. 45)*

- 39 In paragraph 2 of Schedule 4 to the Gas Act 1995 (statutory undertakers), in subparagraph (1)(xxxvi) for “sections 283(2) and” substitute “ section ”.

**Commencement Information**

**I240** Sch. 15 para. 39 wholly in force at 16.6.2006; Sch. 15 para. 39 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 39 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 39 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

*Housing Act 1996 (c. 52)*

- 40 The Housing Act 1996 has effect subject to the following amendments.

**Commencement Information**

**I241** Sch. 15 para. 40 wholly in force at 16.6.2006; Sch. 15 para. 40 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 40 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 40 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

- 41 In section 52(1) (general provisions as to orders) after “17,” insert “ 27A, ”.

**Commencement Information**

**I242** Sch. 15 para. 41 wholly in force at 16.6.2006; Sch. 15 para. 41 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 41 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 41 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

- 42 In section 54 (determinations requiring approval), at the end of paragraph (b) insert “or  
(c) any determination under section 27B (transfer of property funded by grants under section 27A),”.

**Commencement Information**

**I243** Sch. 15 para. 42 wholly in force at 16.6.2006; Sch. 15 para. 42 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 42 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 42 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

- 43 In section 210 (homelessness: suitability of accommodation)—  
(a) for “Parts IX, X and XI” substitute “ Parts 9 and 10 ”; and  
(b) for “; overcrowding; houses in multiple occupation)” substitute “ and overcrowding) and Parts 1 to 4 of the Housing Act 2004 ”.

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**Commencement Information**

**I244** Sch. 15 para. 43 wholly in force at 16.6.2006; Sch. 15 para. 43 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 43 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 43 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

VALID FROM 06/04/2006

*Housing Grants, Construction and Regeneration Act 1996 (c. 53)*

44 In section 24 of the Housing Grants, Construction and Regeneration Act 1996 (considerations of fitness before approving applications for certain grants), omit subsection (4).

**Commencement Information**

**I245** Sch. 15 para. 44 wholly in force at 16.6.2006; Sch. 15 para. 44 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 44 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(d) (with Sch.); Sch. 15 para. 44 in force for W. at 16.6.2006 by S.I. 2006/1535, art 2(b) (with Sch.)

*Government of Wales Act 1998 (c. 38)*

- 45 (1) Paragraph 27 of Schedule 9 to the Government of Wales Act 1998 (consultation by Welsh Administration Ombudsman with other Ombudsmen) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) omit “or” at the end of paragraph (b);
  - (b) at the end of paragraph (c) insert “or
  - (d) by the Social Housing Ombudsman for Wales under regulations under section 51B of the Housing Act 1996,”;
  - (c) after “appropriate Commissioner” insert “ or Ombudsman ”; and
  - (d) after “that Commissioner” insert “ or Ombudsman ”.
- (3) In sub-paragraph (2) after “Commissioner” insert “ or Ombudsman ”.

**Commencement Information**

**I246** Sch. 15 para. 45 partly in force; Sch. 15 para. 45 not in force at Royal Assent see s. 270(2)(3); Sch. 15 para. 45(1)(2)(b)(c)(d)(3) in force for W. at 14.7.2005 by S.I. 2005/1814, art. 2(f)(v)

*Freedom of Information Act 2000 (c. 36)*

46 In the table in section 76(1) of the Freedom of Information Act 2000, after the entry relating to the Welsh Administration Ombudsman, insert—

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“The Social Housing Ombudsman for Wales      Part 1, Chapter 5 of the Housing Act 1996 (c. 52).”

#### Commencement Information

**I247** Sch. 15 para. 46 partly in force; Sch. 15 para. 46 not in force at Royal Assent see s. 270(2)(3); Sch. 15 para. 46 in force for W. at 14.7.2005 by S.I. 2005/1814, art. 2(f)(vi)

VALID FROM 02/01/2007

#### *Local Government Act 2003 (c. 26)*

47 In section 87 of the Local Government Act 2003 (housing strategies and statements) for subsection (4) substitute—

“(4) In this section—

“housing” includes accommodation needs for gypsies and travellers within the meaning of section 225 of the Housing Act 2004;

“local housing authority” has the same meaning as in the Housing Act 1985 (c. 68).”

#### Commencement Information

**I248** Sch. 15 para. 47 wholly in force at 13.12.2007; Sch. 15 para. 47 not in force at Royal Assent see s. 270(4)(5); Sch. 15 para. 47 in force for E. at 2.1.2007 by S.I. 2006/3191, art. 2(c); Sch. 15 para. 47 in force for W. at 13.12.2007 by S.I. 2007/3232, art. 2(c)

VALID FROM 06/04/2006

## SCHEDULE 16

Section 266

### REPEALS

#### Commencement Information

**I249** Sch. 16 partly in force; Sch. 16 not in force at Royal Assent see s. 270(4)(5); Sch. 16 in force for E. for certain purposes at 6.4.2006 by S.I. 2006/1060, art. 2(1)(e) (with Sch.); Sch. 16 in force for W. for certain purposes at 16.6.2006 by S.I. 2006/1535, art. 2(c) (with Sch.); Sch. 16 in force for E. for certain further purposes at 6.4.2007 by S.I. 2007/1068, art. 2(b)

*Short title and chapter*

*Extent of repeal*

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London Building Acts (Amendment) Act 1939 (c. xcvi)	Section 35(1)(c)(i). In section 36(1), the words “or sleep”.
Friendly and Industrial and Provident Societies Act 1968 (c. 55)	Section 4A(3)(b).
Land Compensation Act 1973 (c. 26)	In section 37(9), the words “or undertaking”. In section 39(9), the words “or undertaking”.
Local Government Act 1974 (c. 7)	In section 33, in subsection (1) the “the” after “appropriate Commissioner or”, and in subsection (2) the “the” after “that Commissioner or”.
County of Merseyside Act 1980 (c. x)	Section 48. Section 49(1) and (2). In section 132(2), the words “In section 48 (Means of escape from fire), subsection (5),”.
Civil Aviation Act 1982 (c. 16)	Section 139(3). In Schedule 2, in the entry relating to the Housing Act 1985 in paragraph 4, “283,”.
Mobile Homes Act 1983 (c. 34)	In Part 1 of Schedule 1, in paragraph 6(1), the words “age and”.
Building Act 1984 (c. 55)	Section 72(6)(a).
Housing Act 1985 (c. 68)	In section 104(1)(b), the words “and Part V (the right to buy)”. In section 157, in subsection (2) the words “, subject to subsection (4),”, and subsections (4) and (5). Sections 189 to 208. Section 264. In section 267, in the sidenote the words “and closing orders”, and subsections (2) and (3). Section 269(2A) and (3A). Sections 276 to 279. Sections 283 to 288. Section 289(5A). In section 305, subsection (5) and, in subsection (8), the words from “and” to the end of the subsection. Section 310. In section 311, in subsection (1) the words “or section 310 (owner’s improvements or alterations)” and in subsection (3) the words “or 310, as the case may be”. In section 316(1), the words “, or obstructive building order”.

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	<p>In section 317, in the sidenote the words “or closed”, and in subsection (1) the words “or closing”.</p> <p>Section 318(4).</p> <p>In section 319(1)(b), the words “or closing” and “, or an obstructive building order.”.</p> <p>In section 323, the entries relating to “closing order”, “fit (or unfit) for human habitation”, “house”, “obstructive building”, “obstructive building order” and “unfit (or fit) for human habitation”.</p> <p>Sections 345 to 400.</p> <p>Section 439(1) and (2).</p> <p>Sections 604 to 606.</p> <p>In section 623(1), the words “and “flat”, except in the expression “flat in multiple occupation”,” and the definitions of “house in multiple occupation” and “flat in multiple occupation”.</p> <p>In section 624, the entries relating to “flat”, “flat in multiple occupation” and “house in multiple occupation”.</p> <p>Schedule 10.</p> <p>Schedule 13.</p>
Housing Associations Act 1985 (c. 69)	<p>In section 87, in subsection (3) the words from “, acting” onwards, and subsection (6).</p>
Housing (Consequential Provisions) Act 1985 (c. 71)	<p>In Schedule 2, paragraph 24(2)(d).</p>
Leicestershire Act 1985 (c. xvii)	<p>Section 54(6)(a).</p>
Airports Act 1986 (c. 31)	<p>In Schedule 2, in the entry relating to the Housing Act 1985 in paragraph 1(1), “283,”.</p>
Housing Act 1988 (c. 50)	<p>In section 50(2), the words from “, acting” onwards.</p> <p>In section 52(2), the words from “, acting” to “determine,”.</p> <p>Section 55.</p> <p>In section 57(a), “or 55”.</p> <p>Section 130.</p> <p>Schedule 15.</p>
Electricity Act 1989 (c. 29)	<p>In Schedule 16, paragraph 1(1)(xl).</p>
Local Government and Housing Act 1989 (c. 42)	<p>In section 165(1), paragraphs (a) and (c).</p> <p>Section 167.</p> <p>In Schedule 9, paragraphs 1 to 14, 16, 17(2) and (4), 20(2) and (3), 21 to 23, 25(1), 29, 32, 33(1), 36, 42, 43(b), 44 to 71, 75, 83, 84 and 86.</p>
Health Service Commissioners Act 1993 (c. 46)	<p>In section 18, in subsection (1), the “or” at the end of paragraph (c), the “the” after</p>

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Housing Act 1996 (c. 52)	<p>“appropriate Commissioner or” and the “the” after “that Commissioner or”, and in subsection (2) the words “the Welsh Administration”.</p> <p>In section 18(2), the words from “, acting” to “determine,”.</p> <p>In section 20(3), the words from “, acting” to “determine,”.</p> <p>In section 21(3), the words from “, acting” to “determine,”.</p> <p>Sections 65 to 79.</p> <p>In Schedule 1, paragraph 16(4), in paragraph 18(1) the words from “(which impose” onwards, and in paragraph 19(2) paragraph (d) (but not the “or” at the end).</p>
Housing Grants, Construction and Regeneration Act 1996 (c. 53)	<p>Section 24(4).</p> <p>In section 58, the definition of “qualifying park home”.</p> <p>In section 59, the entries relating to “fit for human habitation” and “qualifying park home”.</p> <p>Sections 81 to 91.</p> <p>Section 97.</p> <p>In Schedule 1, paragraph 10.</p>
Government of Wales Act 1998 (c. 38)	<p>In Schedule 9, in paragraph 27(1) the “or” at the end of paragraph (b).</p>
Transport Act 2000 (c. 38)	<p>In Schedule 5, in paragraph 1(2)(o), “283,”.</p>

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