



Housing Act 2004

2004 CHAPTER 34

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

CHAPTER 2

INTERIM AND FINAL EMPTY DWELLING MANAGEMENT ORDERS

Introductory

132 Empty dwelling management orders: introductory

- (1) This Chapter deals with the making by a local housing authority of—
 - (a) an interim empty dwelling management order (an “interim EDMO”), or
 - (b) a final empty dwelling management order (a “final EDMO”),in respect of a dwelling.
- (2) An interim EDMO is an order made to enable a local housing authority, with the consent of the relevant proprietor, to take steps for the purpose of securing that a dwelling becomes and continues to be occupied.
- (3) A final EDMO is an order made, in succession to an interim EDMO or a previous final EDMO, for the purpose of securing that a dwelling is occupied.
- (4) In this Chapter—
 - (a) “dwelling” means—
 - (i) a building intended to be occupied as a separate dwelling, or
 - (ii) a part of a building intended to be occupied as a separate dwelling which may be entered otherwise than through any non-residential accommodation in the building;

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- (b) any reference to “the dwelling”, in relation to an interim EDMO or a final EDMO, is a reference to the dwelling to which the order relates;
 - (c) “relevant proprietor”, in relation to a dwelling, means—
 - (i) if the dwelling is let under one or more leases with an unexpired term of 7 years or more, the lessee under whichever of those leases has the shortest unexpired term; or
 - (ii) in any other case, the person who has the freehold estate in the dwelling;
 - (d) “third party”, in relation to a dwelling, means any person who has an estate or interest in the dwelling (other than the relevant proprietor and any person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of Schedule 7); and
 - (e) any reference (however expressed) to rent or other payments in respect of occupation of a dwelling, includes any payments that the authority receive from persons in respect of unlawful occupation of the dwelling.
- (5) In subsection (4)(c), the reference to an unexpired term of 7 years or more of a lease of a dwelling is—
- (a) in relation to a dwelling in respect of which the local housing authority are considering making an interim EDMO, a reference to the unexpired term of the lease at the time the authority begin taking steps under section 133(3),
 - (b) in relation to a dwelling in respect of which an interim EDMO has been made, a reference to the unexpired term of the lease at the time the application for authorisation to make the interim EDMO was made under subsection (1) of that section, or
 - (c) in relation to a dwelling in respect of which a local housing authority are considering making or have made a final EDMO, a reference to the unexpired term of the lease at the time the application for authorisation to make the preceding interim EDMO was made under subsection (1) of that section.
- “Preceding interim EDMO”, in relation to a final EDMO, means the interim EDMO that immediately preceded the final EDMO or, where there has been a succession of final EDMOs, the interim EDMO that immediately preceded the first of them.
- (6) Schedule 7 (which makes further provision regarding EDMOs) has effect.

Interim empty dwelling management orders

133 Making of interim EDMOs

- (1) A local housing authority may make an interim EDMO in respect of a dwelling if—
 - (a) it is a dwelling to which this section applies, and
 - (b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them under section 134 to make such an order, either in the terms of a draft order submitted by them or in those terms as varied by the tribunal.
- (2) This section applies to a dwelling if—
 - (a) the dwelling is wholly unoccupied, and
 - (b) the relevant proprietor is not a public sector body.

“Wholly unoccupied” means that no part is occupied, whether lawfully or unlawfully.

- (3) Before determining whether to make an application to a residential property tribunal for an authorisation under section 134, the authority must make reasonable efforts—
 - (a) to notify the relevant proprietor that they are considering making an interim EDMO in respect of the dwelling under this section, and
 - (b) to ascertain what steps (if any) he is taking, or is intending to take, to secure that the dwelling is occupied.
- (4) In determining whether to make an application to a residential property tribunal for an authorisation under section 134, the authority must take into account the rights of the relevant proprietor of the dwelling and the interests of the wider community.
- (5) The authority may make an interim EDMO in respect of the dwelling despite any pending appeal against the order of the tribunal (but this is without prejudice to any order that may be made on the disposal of any such appeal).
- (6) An application to a residential property tribunal under this section for authorisation to make an interim EDMO in respect of a dwelling may include an application for an order under paragraph 22 of Schedule 7 determining a lease or licence of the dwelling.
- (7) In this section “public sector body” means a body mentioned in any of paragraphs (a) to (f) of paragraph 2(1) of Schedule 14.
- (8) Part 1 of Schedule 6 applies in relation to the making of an interim EDMO in respect of a dwelling as it applies in relation to the making of an interim management order in respect of a house, subject to the following modifications—
 - (a) paragraph 7(2) does not apply;
 - (b) paragraph 7(4)(c) is to be read as referring instead to the date on which the order is to cease to have effect in accordance with paragraph 1(3) and (4) or 9(3) to (5) of Schedule 7;
 - (c) in paragraph 7(6)—
 - (i) paragraph (a) is to be read as referring instead to Part 4 of Schedule 7; and
 - (ii) paragraph (b) does not apply;
 - (d) paragraph 8(4) is to be read as defining “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 Schedule 7).

134 Authorisation to make interim EDMOs

- (1) A residential property tribunal may authorise a local housing authority to make an interim EDMO in respect of a dwelling to which section 133 applies if the tribunal—
 - (a) is satisfied as to the matters mentioned in subsection (2), and
 - (b) is not satisfied that the case falls within one of the prescribed exceptions.
- (2) The matters as to which the tribunal must be satisfied are—
 - (a) that the dwelling has been wholly unoccupied for at least 6 months or such longer period as may be prescribed,
 - (b) that there is no reasonable prospect that the dwelling will become occupied in the near future,

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- (c) that, if an interim order is made, there is a reasonable prospect that the dwelling will become occupied,
 - (d) that the authority have complied with section 133(3), and
 - (e) that any prescribed requirements have been complied with.
- (3) In deciding whether to authorise a local housing authority to make an interim EDMO in respect of a dwelling, the tribunal must take into account—
- (a) the interests of the community, and
 - (b) the effect that the order will have on the rights of the relevant proprietor and may have on the rights of third parties.
- (4) On authorising a local housing authority to make an interim EDMO in respect of a dwelling, the tribunal may, if it thinks fit, make an order requiring the authority (if they make the EDMO) to pay to any third party specified in the order an amount of compensation in respect of any interference in consequence of the order with the rights of the third party.
- (5) The appropriate national authority may by order—
- (a) prescribe exceptions for the purposes of subsection (1)(b),
 - (b) prescribe a period of time for the purposes of subsection (2)(a), and
 - (c) prescribe requirements for the purposes of subsection (2)(e).
- (6) An order under subsection (5)(a) may, in particular, include exceptions in relation to—
- (a) dwellings that have been occupied solely or principally by the relevant proprietor who is at the material time temporarily resident elsewhere;
 - (b) dwellings that are holiday homes or that are otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
 - (c) dwellings undergoing repairs or renovation;
 - (d) dwellings in respect of which an application for planning permission or building control approval is outstanding;
 - (e) dwellings which are genuinely on the market for sale or letting;
 - (f) dwellings where the relevant proprietor has died not more than the prescribed number of months before the material time.
- (7) In this section—
- “building control approval” means approval for the carrying out of any works under building regulations;
 - “planning permission” has the meaning given by section 336(1) of the Town and Country Planning Act 1990 (c. 8);
 - “prescribed” means prescribed by an order under subsection (5);
 - “wholly unoccupied” means that no part is occupied, whether lawfully or unlawfully.

135 Local housing authority’s duties once interim EDMO in force

- (1) A local housing authority who have made an interim EDMO in respect of a dwelling must comply with the following provisions as soon as practicable after the order has come into force (see paragraph 1 of Schedule 7).
- (2) The authority must take such steps as they consider appropriate for the purpose of securing that the dwelling becomes and continues to be occupied.

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- (3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the dwelling pending—
 - (a) the making of a final EDMO in respect of the dwelling under section 136, or
 - (b) the revocation of the interim EDMO.
- (4) If the local housing authority conclude that there are no steps which they could appropriately take under the order for the purpose of securing that the dwelling becomes occupied, the authority must either—
 - (a) make a final EDMO in respect of the dwelling under section 136, or
 - (b) revoke the order under paragraph 7 of Schedule 7 without taking any further action.
- (5) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the dwelling against destruction or damage by fire or other causes.

Final empty dwelling management orders

136 Making of final EDMOs

- (1) A local housing authority may make a final EDMO to replace an interim EDMO made under section 133 if—
 - (a) they consider that, unless a final EDMO is made in respect of the dwelling, the dwelling is likely to become or remain unoccupied;
 - (b) where the dwelling is unoccupied, they have taken all such steps as it was appropriate for them to take under the interim EDMO with a view to securing the occupation of the dwelling.
- (2) A local housing authority may make a new final EDMO so as to replace a final EDMO made under this section if—
 - (a) they consider that unless a new final EDMO is made in respect of the dwelling, the dwelling is likely to become or remain unoccupied; and
 - (b) where the dwelling is unoccupied, they have taken all such steps as it was appropriate for them to take under the existing final EDMO with a view to securing the occupation of the dwelling.
- (3) In deciding whether to make a final EDMO in respect of a dwelling, the authority must take into account—
 - (a) the interests of the community, and
 - (b) the effect that the order will have on the rights of the relevant proprietor and may have on the rights of third parties.
- (4) Before making a final EDMO under this section, the authority must consider whether compensation should be paid by them to any third party in respect of any interference in consequence of the order with the rights of the third party.
- (5) Part 1 of Schedule 6 applies in relation to the making of a final EDMO in respect of a dwelling as it applies in relation to the making of a final management order in respect of a house, subject to the following modifications—
 - (a) paragraph 7(2) does not apply;

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- (b) paragraph 7(4)(c) is to be read as referring instead to the date on which the order is to cease to have effect in accordance with paragraph 1(3) and (4) or 9(3) to (5) of Schedule 7;
- (c) in paragraph 7(6)—
 - (i) paragraph (a) is to be read as referring to Part 4 of Schedule 7, and
 - (ii) paragraph (b) is to be read as referring instead to paragraph 27(2) of Schedule 7;
- (d) paragraph 7(6) in addition is to be read as requiring the notice under paragraph 7(5) also to contain—
 - (i) the decision of the authority as to whether to pay compensation to any third party,
 - (ii) the amount of any such compensation to be paid, and
 - (iii) information about the right of appeal against the decision under paragraph 34 of Schedule 7;
- (e) paragraph 8(4) is to be read as defining “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 Schedule 7).

137 Local housing authority’s duties once final EDMO in force

- (1) A local housing authority who have made a final EDMO in respect of a dwelling must comply with the following provisions once the order has come into force (see paragraph 9 of Schedule 7).
- (2) The authority must take such steps as they consider appropriate for the purpose of securing that the dwelling is occupied.
- (3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the dwelling in accordance with the management scheme contained in the order (see paragraph 13 of Schedule 7).
- (4) The authority must from time to time review—
 - (a) the operation of the order and in particular the management scheme contained in it,
 - (b) whether, if the dwelling is unoccupied, there are any steps which they could appropriately take under the order for the purpose of securing that the dwelling becomes occupied, and
 - (c) whether keeping the order in force in relation to the dwelling (with or without making any variations under paragraph 15 of Schedule 7) is necessary to secure that the dwelling becomes or remains occupied.
- (5) If on a review the authority consider that any variations should be made under paragraph 15 of Schedule 7, they must proceed to make those variations.
- (6) If the dwelling is unoccupied and on a review the authority conclude that either—
 - (a) there are no steps which they could appropriately take as mentioned in subsection (4)(b), or
 - (b) keeping the order in force is not necessary as mentioned in subsection (4)(c), they must proceed to revoke the order.

- (7) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the dwelling against destruction or damage by fire or other causes.

Compensation

138 Compensation payable to third parties

- (1) A third party may, while an interim EDMO is in force in respect of a dwelling, apply to a residential property tribunal for an order requiring the local housing authority to pay to him compensation in respect of any interference in consequence of the order with his rights in respect of the dwelling.
- (2) On such an application, the tribunal may, if it thinks fit, make an order requiring the authority to pay to the third party an amount by way of compensation in respect of any such interference.
- (3) If a third party requests them to do so at any time, the local housing authority must consider whether an amount by way of compensation should be paid to him in respect of any interference in consequence of a final EDMO with his rights.
- (4) The authority must notify the third party of their decision as soon as practicable.
- (5) Where the local housing authority decide under subsection (3) that compensation ought to be paid to a third party, they must vary the management scheme contained in the order so as to specify the amount of the compensation to be paid and to make provision as to its payment.