



# Housing Act 2004

## 2004 CHAPTER 34

### PART 4

#### ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

### CHAPTER 1

#### INTERIM AND FINAL MANAGEMENT ORDERS

##### *Introductory*

#### **101 Interim and final management orders: introductory**

- (1) This Chapter deals with the making by a local housing authority of—
  - (a) an interim management order (see section 102), or
  - (b) a final management order (see section 113),in respect of an HMO or a Part 3 house [<sup>F1</sup>or property let in breach of a banning order under section 16 of the Housing and Planning Act 2016].
- (2) Section 103 deals with the making of an interim management order in respect of a house to which that section applies.
- (3) An interim management order is an order (expiring not more than 12 months after it is made) which is made for the purpose of securing that the following steps are taken in relation to the house—
  - (a) any immediate steps which the authority consider necessary to protect the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity, and
  - (b) any other steps which the authority think appropriate with a view to the proper management of the house pending <sup>F2</sup>... the making of a final management order in respect of it (or, if appropriate, the revocation of the interim management order).

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**Changes to legislation:** Housing Act 2004, Part 4 is up to date with all changes known to be in force on or before 21 May 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) View outstanding changes

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- (4) A final management order is an order (expiring not more than 5 years after it is made) which is made for the purpose of securing the proper management of the house on a long-term basis in accordance with a management scheme contained in the order.
- (5) In this Chapter any reference to “the house”, in relation to an interim or final management order (other than an order under section 102(7) [<sup>F3</sup>or (7A)]), is a reference to the HMO or Part 3 house to which the order relates.
- (6) Subsection (5) has effect subject to sections 102(8) and 113(7) (exclusion of part occupied by resident landlord).
- [<sup>F4</sup>(6A) In this Chapter any reference to “the house”, in relation to an interim or final management order that relates to property let in breach of a banning order under section 16 of the Housing and Planning Act 2016, means the property let in breach of that order.
- (6B) In this Chapter any reference to property that is let in breach of a banning order under section 16 of the Housing and Planning Act 2016 includes property in respect of which a breach is (or would be) caused by a licence to occupy.
- (6C) When determining for the purposes of this Chapter whether property is let in breach of a banning order disregard any exception included in the banning order in reliance on section 17 of the Housing and Planning Act 2016.]
- (7) In this Chapter “third party”, in relation to a house, means any person who has an estate or interest in the house (other than an immediate landlord and any person who is a tenant under a lease granted under section 107(3)(c) or 116(3)(c)).

#### Textual Amendments

- F1** Words in s. 101(1) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 2(2)**; [S.I. 2018/393](#), reg. 2(b)
- F2** Words in s. 101(3)(b) omitted (6.4.2018) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 2(3)**; [S.I. 2018/393](#), reg. 2(b)
- F3** Words in s. 101(5) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 2(4)**; [S.I. 2018/393](#), reg. 2(b)
- F4** S. 101(6A)-(6C) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 2(5)**; [S.I. 2018/393](#), reg. 2(b)

#### Commencement Information

- I1** S. 101 wholly in force at 16.6.2006; s. 101 not in force at Royal Assent see s. 270(4)(5); s. 101 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with [Sch.](#)); s. 101 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with [Sch.](#))

### *Interim management orders: making and operation of orders*

## 102 Making of interim management orders

- (1) A local housing authority—
  - (a) are under a duty to make an interim management order in respect of a house in a case within subsection (2) or (3), and

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- (b) have power to make an interim management order in respect of a house in a case within subsection (4) [<sup>F5</sup>, (7) or (7A)].
- (2) The authority must make an interim management order in respect of a house if—
  - (a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 (see section 61(1) or 85(1)) but is not so licensed, and
  - (b) they consider either—
    - (i) that there is no reasonable prospect of its being so licensed in the near future, or
    - (ii) that the health and safety condition is satisfied (see section 104).
- (3) The authority must make an interim management order in respect of a house if—
  - (a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 and is so licensed,
  - (b) they have revoked the licence concerned but the revocation is not yet in force, and
  - (c) they consider either—
    - (i) that, on the revocation coming into force, there will be no reasonable prospect of the house being so licensed in the near future, or
    - (ii) that, on the revocation coming into force, the health and safety condition will be satisfied (see section 104).
- (4) The authority may make an interim management order in respect of a house if—
  - (a) it is an HMO other than one that is required to be licensed under Part 2, and
  - (b) on an application by the authority to [<sup>F6</sup>the appropriate tribunal], the tribunal by order authorises them 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;

and the authority may make such an order 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).
- (5) The tribunal may only authorise the authority to make an interim management order under subsection (4) if it considers that the health and safety condition is satisfied (see section 104).
- (6) In determining whether to authorise the authority to make an interim management order in respect of an HMO under subsection (4), the tribunal must have regard to the extent to which any applicable code of practice approved under section 233 has been complied with in respect of the HMO in the past.
- (7) The authority may make an interim management order in respect of a house if—
  - (a) it is a house to which section 103 (special interim management orders) applies, and
  - (b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them 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;

and the authority may make such an order 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).

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Subsections (2) to (6) of section 103 apply in relation to the power of <sup>[F7]</sup>the appropriate tribunal] to authorise the making of an interim management order under this subsection.

<sup>[F8]</sup>(7A) The authority may make an interim management order in respect of any property let in breach of a banning order under section 16 of the Housing and Planning Act 2016.]

(8) The authority may make an interim management order which is expressed not to apply to a part of the house that is occupied by a person who has an estate or interest in the whole of the house.

In relation to such an order, a reference in this Chapter to “the house” does not include the part so excluded (unless the context requires otherwise, such as where the reference is to the house as an HMO or a Part 3 house).

(9) Nothing in this section requires or authorises the making of an interim management order <sup>[F9]</sup>under subsection (2), (3), (4) or (7)] in respect of a house if—

- (a) an interim management order has been previously made in respect of it, and
- (b) the authority have not exercised any relevant function in respect of the house at any time after the making of the interim management order.

(10) In subsection (9) “relevant function” means the function of—

- (a) granting a licence under Part 2 or 3,
- (b) serving a temporary exemption notice under section 62 or section 86, or
- (c) making a final management order under section 113.

#### Textual Amendments

- F5** Words in s. 102(1)(b) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 3 para. 3\(2\)](#); S.I. 2018/393, reg. 2(b)
- F6** Words in s. 102(4)(b) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\), art. 1, Sch. 1 para. 159](#) (with Sch. 3)
- F7** Words in s. 102(7) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\), art. 1, Sch. 1 para. 159](#) (with Sch. 3)
- F8** S. 102(7A) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 3 para. 3\(3\)](#); S.I. 2018/393, reg. 2(b)
- F9** Words in s. 102(9) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 3 para. 3\(4\)](#); S.I. 2018/393, reg. 2(b)

#### Commencement Information

- I2** S. 102 wholly in force at 16.6.2006; s. 102 not in force at Royal Assent see s. 270(4)(5); s. 102 in force for E. at 6.4.2006 by [S.I. 2006/1060, art. 2\(1\)\(a\)](#) (with Sch.); s. 102 in force for W. at 16.6.2006 by [S.I. 2006/1535, art. 2\(a\)](#) (with Sch.)

### 103 Special interim management orders

(1) This section applies to a house if the whole of it is occupied either—

- (a) under a single tenancy or licence that is not an exempt tenancy or licence under section 79(3) or (4), or
- (b) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under section 79(3) or (4).

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- (2) [<sup>F10</sup>The appropriate tribunal] may only authorise the authority to make an interim management order in respect of such a house under section 102(7) if it considers that both of the following conditions are satisfied.
- (3) The first condition is that the circumstances relating to the house fall within any category of circumstances prescribed for the purposes of this subsection by an order under subsection (5).
- (4) The second condition is that the making of the order is necessary for the purpose of protecting the health, safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house.
- (5) The appropriate national authority may by order—
  - (a) prescribe categories of circumstances for the purposes of subsection (3),
  - (b) provide for any of the provisions of this Act to apply in relation to houses to which this section applies, or interim or final management orders made in respect of them, with any modifications specified in the order.
- (6) The categories prescribed by an order under subsection (5) are to reflect one or more of the following—
  - (a) the first or second set of general conditions mentioned in subsection (3) or (6) of section 80, or
  - (b) any additional set of conditions specified under subsection (7) of that section, but (in each case) with such modifications as the appropriate national authority considers appropriate to adapt them to the circumstances of a single house.
- (7) In this section “house” has the same meaning as in Part 3 (see section 99).
- (8) In this Chapter—
  - (a) any reference to “the house”, in relation to an interim management order under section 102(7), is a reference to the house to which the order relates, and
  - (b) any such reference includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

#### Textual Amendments

**F10** Words in s. 103(2) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 160](#) (with [Sch. 3](#))

#### Commencement Information

**I3** S. 103 wholly in force at 16.6.2006; s. 103 in force for certain purposes at Royal Assent see s. 270(2) (b); s. 103 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 103 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 104 The health and safety condition

- (1) This section explains what “the health and safety condition” is for the purposes of section 102.
- (2) The health and safety condition is that the making of an interim management order is necessary for the purpose of protecting the health, safety or welfare of persons

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occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

- (3) A threat to evict persons occupying a house in order to avoid the house being required to be licensed under Part 2 may constitute a threat to the welfare of those persons for the purposes of subsection (2).

This does not affect the generality of that subsection.

- (4) The health and safety condition is not to be regarded as satisfied for the purposes of section 102(2)(b)(ii) or (3)(c)(ii) where both of the conditions in subsections (5) and (6) are satisfied.
- (5) The first condition is that the local housing authority either—
- (a) (in a case within section 102(2)(b)(ii)) are required by section 5 (general duty to take enforcement action in respect of category 1 hazards) to take a course of action within subsection (2) of that section in relation to the house, or
  - (b) (in a case within section 102(3)(c)(ii)) consider that on the revocation coming into force they will be required to take such a course of action.
- (6) The second condition is that the local housing authority consider that the health, safety or welfare of the persons in question would be adequately protected by taking that course of action.

#### Commencement Information

- I4** [S. 104](#) wholly in force at 16.6.2006; [s. 104](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 104](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 104](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 105 Operation of interim management orders

- (1) This section deals with the time when an interim management order comes into force or ceases to have effect.
- (2) The order comes into force when it is made, unless it is made under section 102(3).
- (3) If the order is made under section 102(3), it comes into force when the revocation of the licence comes into force.
- (4) 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.
- (5) 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.
- (6) If the order is made under section 102(3)—
- (a) it must include a provision for determining the date on which it will cease to have effect, and
  - (b) it accordingly ceases to have effect on the date so determined.
- (7) That date must be no later than 12 months after the date on which the order comes into force.

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[<sup>F11</sup>(7A) An order under section 102(7A) ceases to have effect (if it has not already ceased to have effect) when the ban on letting housing in England ceases to have effect.

(7B) In subsection (7A) “the ban on letting housing in England” means the ban on letting contained in the banning order mentioned in section 102(7A).]

(8) Subsections (9) [<sup>F12</sup>to] (10) apply where—

- (a) a final management order (“the FMO”) has been made under section 113 so as to replace the order (“the IMO”), but
- (b) the FMO has not come into force because of an appeal to [<sup>F13</sup>the appropriate tribunal] under paragraph 24 of Schedule 6 against the making of the FMO.

(9) If—

- (a) the house would (but for the IMO being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and
- (b) the date on which—
  - (i) the FMO,
  - (ii) any licence under Part 2 or 3, or
  - (iii) another interim management order,

comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the IMO would cease to have effect apart from this subsection,

the IMO continues in force until that later date.

[<sup>F14</sup>(9A) If—

- (a) the IMO was made under section 102(7A), and
- (b) the date on which the FMO or another interim management order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the IMO would cease to have effect apart from this subsection,

the IMO continues in force until that later date.]

(10) If, on the application of the authority, the tribunal makes an order providing for the IMO to continue in force, pending the disposal of the appeal, until a date later than that on which the IMO would cease to have effect apart from this subsection, the IMO accordingly continues in force until that later date.

(11) This section has effect subject to sections 111 and 112 (variation or revocation of orders by authority) and to the power of revocation exercisable by [<sup>F15</sup>the appropriate tribunal] on an appeal made under paragraph 24 or 28 of Schedule 6.

#### Textual Amendments

**F11** S. 105(7A)(7B) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 3 para. 4\(2\)](#); S.I. 2018/393, reg. 2(b)

**F12** Word in s. 105(8) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 3 para. 4\(3\)](#); S.I. 2018/393, reg. 2(b)

**F13** Words in s. 105(8)(b) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 161](#) (with Sch. 3)

**F14** S. 105(9A) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 3 para. 4\(4\)](#); S.I. 2018/393, reg. 2(b)

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**F15** Words in s. 105(11) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 161](#) (with [Sch. 3](#))

#### Commencement Information

**I5** S. 105 wholly in force at 16.6.2006; s. 105 not in force at Royal Assent see s. 270(4)(5); s. 105 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 105 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 106 Local housing authority's duties once interim management order in force

- (1) A local housing authority who have made an interim management order in respect of a house must comply with the following provisions as soon as practicable after the order has come into force.
- (2) The authority must first take any immediate steps which they consider to be necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.
- (3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the house pending—
  - (a) the grant of a licence or the making of a final management order in respect of the house as mentioned in subsection (4) or (5), or
  - (b) the revocation of the interim management order as mentioned in subsection (5).
- (4) If the house would (but for the order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—
  - (a) to grant a licence under that Part in respect of the house, or
  - (b) to make a final management order in respect of it under section 113(1).
- (5) If subsection (4) does not apply to the house, the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—
  - (a) to make a final management order in respect of the house under section 113(3), or
  - (b) to revoke the order under section 112 without taking any further action.
- (6) In the following provisions, namely—
  - (a) subsections (3) and (4), and
  - (b) section 101(3)(b),
 the reference to the grant of a licence under Part 2 or 3 in respect of the house includes a reference to serving a temporary exemption notice under section 62 or section 86 in respect of it (whether or not a notification is given under subsection (1) of that section).
- (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 house against destruction or damage by fire or other causes.



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### Commencement Information

- I6** [S. 106](#) wholly in force at 16.6.2006; [s. 106](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 106](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 106](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 107 General effect of interim management orders

- (1) This section applies while an interim management order is in force in relation to a house.
- (2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duties under section 106(1) to (3) in respect of the house.
- (3) The authority—
  - (a) have the right to possession of the house (subject to the rights of existing occupiers preserved by section 124(3));
  - (b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;
  - (c) may create one or more of the following—
    - (i) an interest in the house 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 house.
- (4) But the authority may not under subsection (3)(c) create any interest or right in the nature of a lease or licence unless consent in writing has been given by the person who (but for the order) would have power to create the lease or licence in question.
- (5) The authority—
  - (a) do not under this section acquire any estate or interest in the house, and
  - (b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest;

but, where the immediate landlord of the house or part of it (within the meaning of section 109) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.
- (6) 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 subsection (5), or
  - (b) a lease to which the authority become a party under section 124(4),

as if the authority were the legal owner of the premises (but this is subject to section 124(7) to (9)).
- (7) None of the following, namely—
  - (a) the authority, or
  - (b) any person authorised under subsection (3)(b),

is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's

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duties under section 106(1) to (3) unless the act or omission is due to the negligence of the authority or any such person.

- (8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which an interim management order is in force.
- (9) An interim management order 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 section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### Commencement Information

- I7** [S. 107](#) wholly in force at 16.6.2006; [s. 107](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 107](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 107](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 108 General effect of interim management orders: leases and licences granted by authority

- (1) This section applies in relation to any interest or right created by the authority under section 107(3)(c).
- (2) For the purposes of any enactment or rule of law—
  - (a) any interest created by the authority under section 107(3)(c)(i) is to be treated as if it were a legal lease, and
  - (b) any right created by the authority under section 107(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the premises, despite the fact that the authority have no legal estate in the premises (see section 107(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 section 107(3)(c)(i) as if the authority were the legal owner of the premises.
- (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 section 107(3)(c).
- (5) The preceding provisions of this section have effect subject to—
  - (a) section 124(7) to (9), and
  - (b) any provision to the contrary contained in an order made by the appropriate national authority.
- (6) In section 107(5)(b) the reference to leasing does not include the creation of interests under section 107(3)(c)(i).
- (7) In this section—

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“enactment” has the meaning given by section 107(11);  
“legal lease” means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

#### Commencement Information

**I8** [S. 108](#) wholly in force at 16.6.2006; [s. 108](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 108](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 108](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 109 General effect of interim management orders: immediate landlords, mortgagees etc.

- (1) This section applies in relation to—
  - (a) immediate landlords, and
  - (b) other persons with an estate or interest in the house,
while an interim management order is in force in relation to a house.
- (2) A person who is an immediate landlord of the house or a part of it—
  - (a) is not entitled to receive—
    - (i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4), or
    - (ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any leases or licences granted by them under section 107(3)(c);
  - (b) may not exercise any rights or powers with respect to the management of the house or part; and
  - (c) may not create any of the following—
    - (i) any leasehold interest in the house or part (other than a lease of a reversion), or
    - (ii) any licence or other right to occupy it.
- (3) However (subject to subsection (2)(c)) nothing in section 107 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.
- (4) Nothing in section 107 or this section affects—
  - (a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or
  - (b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 107(5)) 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 section 107(3)(c).
- (5) 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 management order (including an order quashing it).

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- (6) For the purposes of this Chapter, as it applies in relation to an interim management order, a person is an “immediate landlord” of the house or a part of it if—
- (a) he is an owner or lessee of the house or part, and
  - (b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4).

#### Commencement Information

- I9** S. 109 wholly in force at 16.6.2006; s. 109 not in force at Royal Assent see s. 270(4)(5); s. 109 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 109 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 110 Financial arrangements while order is in force

- (1) This section applies to relevant expenditure of a local housing authority who have made an interim management order.
- (2) “Relevant expenditure” means expenditure reasonably incurred by the authority in connection with performing their duties under section 106(1) to (3) in respect of the house (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 the house 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 a decision of the authority under section 128.
- (4) <sup>[F16]</sup>If the interim management order is not made under section 102(7A),] the authority must pay to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate—
  - (a) any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that subsection, 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 management order may provide for—
  - (a) the rate of interest which is to apply for the purposes of paragraph (b) of subsection (4); and
  - (b) the intervals at which payments are to be made under that subsection.

Paragraph 24(3) of Schedule 6 enables an appeal to be brought where the order does not provide for both of those matters.

- <sup>[F17]</sup>(5A) The Secretary of State may by regulations make provision about how local authorities are to deal with any surplus in a case where the interim management order was made under section 102(7A).

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(5B) In subsection (5A) “surplus” means any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that subsection.]

(6) The authority must—

- (a) keep full accounts of their income and expenditure in respect of the house; and
- (b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.

(7) A relevant landlord may apply to [<sup>F18</sup>the appropriate tribunal] for an order—

- (a) declaring that an amount shown in the accounts as expenditure of the authority does not constitute expenditure reasonably incurred by the authority as mentioned in subsection (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 section—

“expenditure” includes administrative costs;

“relevant landlord” means any person who is an immediate landlord of the house or part of it;

“rent or other payments” means rents or other payments payable under leases or licences or in respect of furniture within section 126(1).

#### Textual Amendments

**F16** Words in s. 110(4) inserted (6.4.2018) by Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 3 para. 5(2)**; S.I. 2018/393, reg. 2(b)

**F17** S. 110(5A)(5B) inserted (3.11.2017) by Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 3 para. 5(3)**; S.I. 2017/1052, reg. 2(d)

**F18** Words in s. 110(7) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 162** (with Sch. 3)

#### Commencement Information

**I10** S. 110 wholly in force at 16.6.2006; s. 110 not in force at Royal Assent see s. 270(4)(5); s. 110 in force for E. at 6.4.2006 by S.I. 2006/1060, **art. 2(1)(a)** (with Sch.); s. 110 in force for W. at 16.6.2006 by S.I. 2006/1535, **art. 2(a)** (with Sch.)

### *Interim management orders: variation and revocation*

## **111 Variation of interim management orders**

- (1) The local housing authority may vary an interim management order 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 subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

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- (3) The power to vary an order under this section 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 section “relevant person” means—
  - (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
  - (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

#### Commencement Information

**III** [S. 111](#) wholly in force at 16.6.2006; [s. 111](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 111](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 111](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 112 Revocation of interim management orders

- (1) The local housing authority may revoke an interim management order in the following cases—
  - (a) if the order was made under section 102(2) or (3) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be);
  - (b) if the order was made under section 102(2) or (3) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 on the revocation of the order;
  - (c) if a final management order has been made by them in respect of the house so as to replace the order;
  - (d) if in any other circumstances the authority consider it appropriate to revoke the order.
- (2) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal).
- [<sup>F19</sup>(2A) An interim management order may not be revoked under this section if—
  - (a) the immediate landlord is subject to a banning order under section 16 of the Housing and Planning Act 2016,
  - (b) there is in force an agreement which, under section 108, has effect as a lease or licence granted by the authority, and
  - (c) revoking the interim management order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).]
- (3) The power to revoke an order under this section 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 section “relevant person” means—
  - (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or

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- (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

#### Textual Amendments

**F19** S. 112(2A) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 3 para. 6; S.I. 2018/393, reg. 2\(b\)](#)

#### Commencement Information

**I12** S. 112 wholly in force at 16.6.2006; s. 112 not in force at Royal Assent see s. 270(4)(5); s. 112 in force for E. at 6.4.2006 by [S.I. 2006/1060, art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 112 in force for W. at 16.6.2006 by [S.I. 2006/1535, art. 2\(a\)](#) (with [Sch.](#))

### *Final management orders: making and operation of orders*

## 113 Making of final management orders

- (1) A local housing authority who have made an interim management order in respect of a house under [<sup>F20</sup>any provision of section 102 other than subsection (7A) of that section] (“the IMO”)—
  - (a) have a duty to make a final management order in respect of the house in a case within subsection (2), and
  - (b) have power to make such an order in a case within subsection (3).
- (2) The authority must make a final management order so as to replace the IMO as from its expiry date if—
  - (a) on that date the house would be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and
  - (b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the IMO as from that date.
- (3) The authority may make a final management order so as to replace the IMO as from its expiry date if—
  - (a) on that date the house will not be one that would be required to be licensed as mentioned in subsection (2)(a), and
  - (b) the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

[<sup>F21</sup>(3A) A local housing authority who have made an interim management order under section 102(7A) may make a final management order so as to replace the interim management order as from its expiry date if the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.]

- (4) A local housing authority who have made a final management order in respect of a house under [<sup>F22</sup>subsection (2), (3), (5) or (6) of] this section (“the existing order”)—
  - (a) have a duty to make a final management order in respect of the house in a case within subsection (5), and



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- (b) have power to make such an order in a case within subsection (6).
  - (5) The authority must make a new final management order so as to replace the existing order as from its expiry date if—
    - (a) on that date the condition in subsection (2)(a) will be satisfied in relation to the house, and
    - (b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the existing order as from that date.
  - (6) The authority may make a new final management order so as to replace the existing order as from its expiry date if—
    - (a) on that date the condition in subsection (3)(a) will be satisfied in relation to the house, and
    - (b) the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons within subsection (3)(b).
- [<sup>F23</sup>(6A) A local housing authority who have made a final management order in respect of a house under subsection (3A) or this subsection (“the existing order”) may make a new final management order so as to replace the existing order as from its expiry date if the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.]
- (7) The authority may make a final management order which is expressed not to apply to a part of the house that is occupied by a person who has an estate or interest in the whole of the house.
- In relation to such an order, a reference in this Chapter to “the house” does not include the part so excluded (unless the context requires otherwise, such as where the reference is to the house as an HMO or a Part 3 house).
- (8) In this section “expiry date”, in relation to an interim or final management order, means—
    - (a) where the order is revoked, the date as from which it is revoked, and
    - (b) otherwise the date on which the order ceases to have effect under section 105 or 114;
 and nothing in this section applies in relation to an interim or final management order which has been revoked on an appeal under Part 3 of Schedule 6.

#### Textual Amendments

- F20** Words in s. 113(1) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 7(2)**; S.I. 2018/393, reg. 2(b)
- F21** S. 113(3A) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 7(3)**; S.I. 2018/393, reg. 2(b)
- F22** Words in s. 113(4) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 7(4)**; S.I. 2018/393, reg. 2(b)
- F23** S. 113(6A) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 7(5)**; S.I. 2018/393, reg. 2(b)



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### Commencement Information

- II3** S. 113 wholly in force at 16.6.2006; s. 113 not in force at Royal Assent see s. 270(4)(5); s. 113 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 113 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 114 Operation of final management orders

- (1) This section deals with the time when a final management order 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 subsection under paragraph 27 of Schedule 6 (time when period for appealing expires without an appeal being made or when order is confirmed on appeal).
  - (3) The order ceases to have effect at the end of the period of 5 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.
- [<sup>F24</sup>(4A) An order under section 113(3A) or (6A) ceases to have effect (if it has not already ceased to have effect) when the relevant ban on letting housing in England ceases to have effect.
- (4B) In subsection (4A) “the relevant ban on letting housing in England” means the ban on letting contained in the banning order mentioned in section 102(7A).]
- (5) Subsections (6) [<sup>F25</sup>to] (7) apply where—
    - (a) a new final management order (“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 [<sup>F26</sup>the appropriate tribunal] under paragraph 24 of Schedule 6 against the making of that order.
  - (6) If—
    - (a) the house would (but for the existing order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and
    - (b) the date on which—
      - (i) the new order, or
      - (ii) any licence under Part 2 or 3, or
      - (iii) a temporary exemption notice under section 62 or 86,
 comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection,
 the existing order continues in force until that later date.
- [<sup>F27</sup>(6A) If—
- (a) the existing order was made under section 113(3A) or (6A), and

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- (b) the date on which the new order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection, the existing order continues in force until that later date.]
- (7) 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 subsection, the existing order accordingly continues in force until that later date.
- (8) This section has effect subject to sections 121 and 122 (variation or revocation of orders) and to the power of revocation exercisable by [<sup>F28</sup>the appropriate tribunal] on an appeal made under paragraph 24 or 28 of Schedule 6.

#### Textual Amendments

- F24** S. 114(4A)(4B) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 8(2)**; [S.I. 2018/393](#), reg. 2(b)
- F25** Word in s. 114(5) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 8(3)**; [S.I. 2018/393](#), reg. 2(b)
- F26** Words in s. 114(5)(b) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 163** (with Sch. 3)
- F27** S. 114(6A) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 3 para. 8(4)**; [S.I. 2018/393](#), reg. 2(b)
- F28** Words in s. 114(8) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 163** (with Sch. 3)

#### Commencement Information

- I14** S. 114 wholly in force at 16.6.2006; s. 114 not in force at Royal Assent see s. 270(4)(5); s. 114 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with [Sch.](#)); s. 114 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with [Sch.](#))

### 115 Local housing authority's duties once final management order in force

- (1) A local housing authority who have made a final management order in respect of a house must comply with the following provisions once the order has come into force.
- (2) The local housing authority must take such steps as they consider appropriate with a view to the proper management of the house in accordance with the management scheme contained in the order (see section 119).
- (3) The local housing authority must from time to time review—
  - (a) the operation of the order and in particular the management scheme contained in it, and
  - (b) whether keeping the order in force in relation to the house (with or without making any variations under section 121) is the best alternative available to them.
- (4) If on a review the authority consider that any variations should be made under section 121, they must proceed to make those variations.
- (5) If on a review the authority consider that either—
  - (a) granting a licence under Part 2 or 3 in respect of the house, or

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- (b) revoking the order under section 122 and taking no further action, is the best alternative available to them, the authority must grant such a licence or revoke the order (as the case may be).
- (6) For the avoidance of doubt, the authority's duty under subsection (2) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes.

#### Commencement Information

**I15** [S. 115](#) wholly in force at 16.6.2006; [s. 115](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 115](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 115](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 116 General effect of final management orders

- (1) This section applies while a final management order is in force in relation to a house.
- (2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duty under section 115(2) in respect of the house.
- (3) The authority—
  - (a) have the right to possession of the house (subject to the rights of existing and other occupiers preserved by section 124(3) and (6));
  - (b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;
  - (c) may create one or more of the following—
    - (i) an interest in the house 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 house.
- (4) The powers of the authority under subsection (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 person who would (but for the order) have power to create the lease or licence in question;
  - (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 section acquire any estate or interest in the house, and
  - (b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest;

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but, where the immediate landlord of the house or part of it (within the meaning of section 118) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.

- (6) 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 subsection (5), or
  - (b) a lease to which the authority become a party under section 124(4),
- as if the authority were the legal owner of the premises (but this is subject to section 124(7) to (9)).
- (7) None of the following, namely—
- (a) the authority, or
  - (b) any person authorised under subsection (3)(b),
- is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's duty under section 115(2) unless the act or omission is due to the negligence of the authority or any such person.
- (8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which a final management order is in force.
- (9) A final management order which has come into force is a local land charge.
- (10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register in respect of such an order.
- (11) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### Commencement Information

**I16** [S. 116](#) wholly in force at 16.6.2006; [s. 116](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 116](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 116](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 117 General effect of final management orders: leases and licences granted by authority

- (1) This section applies in relation to any interest or right created by the authority under section 116(3)(c).
- (2) For the purposes of any enactment or rule of law—
- (a) any interest created by the authority under section 116(3)(c)(i) is to be treated as if it were a legal lease, and
  - (b) any right created by the authority under section 116(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the premises,
- despite the fact that the authority have no legal estate in the premises (see section 116(5)(a)).

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- (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 section 116(3)(c)(i) as if the authority were the legal owner of the premises.
- (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 section 116(3)(c).
- (5) The preceding provisions of this section have effect subject to—
  - (a) section 124(7) to (9), and
  - (b) any provision to the contrary contained in an order made by the appropriate national authority.
- (6) In section 116(5)(b) the reference to leasing does not include the creation of interests under section 116(3)(c)(i).
- (7) In this section—
  - “enactment” has the meaning given by section 116(11);
  - “legal lease” means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

#### Commencement Information

**I17** [S. 117](#) wholly in force at 16.6.2006; [s. 117](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 117](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 117](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### **118 General effect of final management orders: immediate landlords, mortgagees etc.**

- (1) This section applies in relation to—
  - (a) immediate landlords, and
  - (b) other persons with an estate or interest in the house,
 while a final management order is in force in relation to a house.
- (2) A person who is an immediate landlord of the house or a part of it—
  - (a) is not entitled to receive—
    - (i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4), or
    - (ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any leases or licences granted by them under section 107(3)(c) or 116(3)(c);
  - (b) may not exercise any rights or powers with respect to the management of the house or part; and
  - (c) may not create any of the following—
    - (i) any leasehold interest in the house or part (other than a lease of a reversion), or

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- (ii) any licence or other right to occupy it.
- (3) However (subject to subsection (2)(c)) nothing in section 116 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.
- (4) Nothing in section 116 or this section affects—
  - (a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or
  - (b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 116(5)) 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 section 116(3)(c).
- (5) 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 management order (including an order quashing it).
- (6) For the purposes of this Chapter, as it applies in relation to a final management order, a person is an “immediate landlord” of the house or a part of it if—
  - (a) he is an owner or lessee of the house or part, and
  - (b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the authority by virtue of section 124(4).

#### Commencement Information

**I18** S. 118 wholly in force at 16.6.2006; s. 118 not in force at Royal Assent see s. 270(4)(5); s. 118 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 118 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 119 Management schemes and accounts

- (1) A final management order must contain a management scheme.
- (2) A “management scheme” is a scheme setting out how the local housing authority are to carry out their duty under section 115(2) as respects the management of the house.
- (3) A management scheme is to be divided into two parts.
- (4) Part 1 of the scheme is to contain a plan giving details of the way in which the authority propose to manage the house, which must (in particular) include—
  - (a) details of any works that the authority intend to carry out in connection with the house;
  - (b) an estimate of the capital and other expenditure to be incurred by the authority in respect of the house while the order is in force;
  - (c) the amount of rent or other payments that the authority will seek to obtain having regard to the condition or expected condition of the house at any time while the order is in force;

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- (d) the amount of any compensation that is payable to a third party by virtue of a decision of the authority under section 128 in respect of any interference in consequence of the final management order with the rights of that person;
- (e) provision as to the payment of any such compensation;
- (f) provision as to the payment by the authority to a relevant landlord, from time to time, of amounts of rent or other payments that remain after the deduction of—
  - (i) relevant expenditure, and
  - (ii) any amounts of compensation payable as mentioned in paragraph (d);
- (g) provision as to the manner in which the authority are to pay to a relevant landlord, on the termination of the final management order, any amounts of rent or other payments that remain after the deduction of—
  - (i) relevant expenditure, and
  - (ii) any amounts of compensation payable as mentioned in paragraph (d);
- (h) provision as to the manner in which the authority are to pay, on the termination of the final management order, any outstanding balance of compensation payable to a third party.

[<sup>F29</sup>(4A) Subsection (4)(f) and (g) does not apply in a case where the final management order was made under section 113(3A) or (6A).

(4B) The Secretary of State may by regulations make provision about how local authorities are to deal with any surplus in a case where the final management order was made under section 113(3A) or (6A).

(4C) In subsection (4B) “surplus” means any amount of rent or other payments that the authority have collected or recovered, by virtue of this Chapter, that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in subsection (2)(d).]

(5) Part 1 of 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 a relevant landlord (where appropriate) of interest on amounts within subsection (4)(f) and (g);
- (c) that section 129(2) or (4) is not to apply in relation to an interim or (as the case may be) final management order that immediately preceded the final management order, and that instead the authority intend to use any balance or amount such as is mentioned in that subsection to meet—
  - (i) relevant expenditure incurred during the currency of the final management order, and
  - (ii) any compensation that may become payable to a third party;
- (d) that section 129(3) or (5) is not to apply in relation to an interim or (as the case may be) final management order that immediately preceded the final management order (“the order”), and that instead the authority intend to use rent or other payments collected during the currency of the order to reimburse the authority in respect of any deficit or amount such as is mentioned in that subsection;
- (e) the authority’s intentions as regards the recovery from a relevant landlord, with or without interest, of any amount of relevant expenditure that cannot be reimbursed out of the total amount of rent or other payments.



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- (6) Part 2 of the scheme is to describe in general terms how the authority intend to address the matters which caused them to make the final management order and may, for example, include—
- (a) descriptions of any steps that the authority intend to take to require persons occupying the house to comply with their obligations under any lease or licence or under the general law;
  - (b) descriptions of any repairs that are needed to the property and an explanation as to why those repairs are necessary.
- (7) The authority must—
- (a) keep full accounts of their income and expenditure in respect of the house; and
  - (b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (8) In this section—
- “relevant expenditure” means expenditure reasonably incurred by the authority in connection with performing their duties under section 115(2) in respect of the house (including any reasonable administrative costs and any premiums paid for insurance of the premises);
- “relevant landlord” means any person who is an immediate landlord of the house or part of it;
- “rent or other payments” means rent or other payments—
- (a) which are payable under leases or licences or in respect of furniture within section 126(1), and
  - (b) which the authority have collected or recovered by virtue of this Chapter.
- (9) In the provisions of this Chapter relating to varying, revoking or appealing against decisions relating to a final management order, any reference to such an order includes (where the context permits) a reference to the management scheme contained in it.

#### Textual Amendments

**F29** S. 119(4A)-(4C) inserted (3.11.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 3 para. 9](#); [S.I. 2017/1052](#), reg. 2(e)

#### Commencement Information

**I19** S. 119 wholly in force at 16.6.2006; s. 119 not in force at Royal Assent see s. 270(4)(5); s. 119 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 119 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 120 Enforcement of management scheme by relevant landlord

- (1) An affected person may apply to [<sup>F30</sup>the appropriate tribunal] for an order requiring the local housing authority to manage the whole or part of a house in accordance with the management scheme contained in a final management order made in respect of the house.
- (2) On such an application the tribunal may, if it considers it appropriate to do so, make an order—



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- (a) requiring the local housing authority to manage the whole or part of the house in accordance with the management scheme, or
  - (b) revoking the final management order as from a date specified in the tribunal's order.
- (3) An order under subsection (2) may—
- (a) specify the steps which the authority are to take to manage the whole or part of the house in accordance with the management scheme,
  - (b) include provision varying the final management order,
  - (c) require the payment of money to an affected person by way of damages.
- (4) In this section “affected person” means—
- (a) a relevant landlord (within the meaning of section 119), and
  - (b) any third party to whom compensation is payable by virtue of a decision of the authority under section 128.

#### Textual Amendments

**F30** Words in s. 120(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 164](#) (with [Sch. 3](#))

#### Commencement Information

**I20** S. 120 wholly in force at 16.6.2006; s. 120 not in force at Royal Assent see s. 270(4)(5); s. 120 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 120 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### *Final management orders: variation and revocation*

## 121 Variation of final management orders

- (1) The local housing authority may vary a final management order 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 subsection under paragraph 31 of Schedule 6 (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 section 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 section “relevant person” means—
  - (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
  - (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

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### Commencement Information

**I21** S. 121 wholly in force at 16.6.2006; s. 121 not in force at Royal Assent see s. 270(4)(5); s. 121 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 121 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 122 Revocation of final management orders

(1) The local housing authority may revoke a final management order in the following cases—

- (a) if the order was made under section 113(2) or (5) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be);
- (b) if the order was made under section 113(2) or (5) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 as from the revocation of the order;
- (c) if a further final management order has been made by them in respect of the house so as to replace the order;
- (d) if in any other circumstances the authority consider it appropriate to revoke the order.

(2) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 31 of Schedule 6 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

[<sup>F31</sup>(2A) A final management order may not be revoked under this section at a time when—

- (a) the immediate landlord is subject to a banning order under section 16 of the Housing and Planning Act 2016,
- (b) there is in force an agreement which, under section 117, has effect as a lease or licence granted by the authority, and
- (c) revoking the final management order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).]

(3) The power to revoke an order under this section 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 section “relevant person” means—

- (a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or
- (b) any other person who (but for the order) would be a person managing or having control of the house or part of it.

### Textual Amendments

**F31** S. 122(2A) inserted (6.4.2018) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 3 para. 10; S.I. 2018/393, reg. 2(b)

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### Commencement Information

**I22** S. 122 wholly in force at 16.6.2006; s. 122 not in force at Royal Assent see s. 270(4)(5); s. 122 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 122 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### *Interim and final management orders: procedure and appeals*

## 123 Procedural requirements and appeals

Schedule 6 (which deals with procedural requirements relating to the making, variation or revocation of interim and final management orders and with appeals against decisions relating to such orders) has effect.

### Commencement Information

**I23** S. 123 wholly in force at 16.6.2006; s. 123 not in force at Royal Assent see s. 270(4)(5); s. 123 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 123 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### *Interim and final management orders: other general provisions*

## 124 Effect of management orders: occupiers

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

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- (5) Such a lease continues to have effect, as far as possible, as a lease despite the fact that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises.
- (6) Section 116 does not affect the rights or liabilities of a new occupier who, in the case of a final management order, is occupying the whole or part of the house at the time when the order comes into force.
- (7) The provisions which exclude local authority lettings from the Rent Acts, namely—
  - (a) sections 14 to 16 of the Rent Act 1977 (c. 42), and
  - (b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act,do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.
- (8) Section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act) do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.
- (9) Nothing in this Chapter has the result that the authority are to be treated as the legal owner of any premises for the purposes of—
  - (a) section 80 of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies); or
  - (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).
- (10) If, immediately before the coming into force of an interim or final management order, an existing occupier was occupying the whole or part of the house under—
  - (a) a protected or statutory tenancy within the meaning of the Rent Act 1977 (c. 42),
  - (b) a protected or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976 (c. 80), or
  - (c) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988 (c. 50),nothing in this Chapter prevents the continuance of that tenancy or occupancy or affects the continued operation of any of those Acts in relation to the tenancy or occupancy after the coming into force of the order.
- (11) In this section “the commencement date” means the date on which the order came into force (or, if that order was preceded by one or more orders under this Chapter, the date when the first order came into force).

#### Commencement Information

**I24** [S. 124](#) wholly in force at 16.6.2006; [s. 124](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 124](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 124](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

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## 125 Effect of management orders: agreements and legal proceedings

- (1) An agreement or instrument within subsection (2) has effect, while an interim or final management order is in force, as if any rights or liabilities of the immediate landlord under the agreement or instrument were instead rights or liabilities of the local housing authority.
- (2) An agreement or instrument is within this subsection if—
  - (a) it is effective on the commencement date,
  - (b) one of the parties to it is a person who is the immediate landlord of the house or a part of the house (“the relevant premises”),
  - (c) it relates to the house, whether in connection with—
    - (i) any management activities with respect to the relevant premises, or
    - (ii) the provision of any services or facilities for persons occupying those premises,
 or otherwise,
  - (d) it is specified for the purposes of this subsection in the order or falls within a description of agreements or instruments so specified, and
  - (e) the authority serve a notice in writing on all the parties to it stating that subsection (1) is to apply to it.
- (3) An agreement or instrument is not within subsection (2) if—
  - (a) it is a lease within section 107(5) or 116(5), or
  - (b) it relates to any disposition by the immediate landlord which is not precluded by section 109(2) or 118(2), or
  - (c) it is within section 124(4).
- (4) Proceedings in respect of any cause of action within subsection (5) may, while an interim or final management order is in force, be instituted or continued by or against the local housing authority instead of by or against the immediate landlord.
- (5) A cause of action is within this subsection if—
  - (a) it is a cause of action (of any nature) which accrued to or against the immediate landlord of the house or a part of the house before the commencement date,
  - (b) it relates to the house as mentioned in subsection (2)(c),
  - (c) it is specified for the purposes of this subsection in the order or falls within a description of causes of action so specified, and
  - (d) the authority serve a notice in writing on all interested parties stating that subsection (4) is to apply to it.
- (6) If, by virtue of this section, the authority become subject to any liability to pay damages in respect of anything done (or omitted to be done) before the commencement date by or on behalf of the immediate landlord of the house or a part of it, the immediate landlord is liable to reimburse to the authority an amount equal to the amount of the damages paid by them.
- (7) In this section—
 

“agreement” includes arrangement;

“the commencement date” means the date on which the order comes into force (or, if that order was preceded by one or more orders under this Chapter, the date when the first order came into force);

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“management activities” includes repair, maintenance, improvement and insurance.

#### Commencement Information

**I25** S. 125 wholly in force at 16.6.2006; s. 125 not in force at Royal Assent see s. 270(4)(5); s. 125 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 125 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 126 Effect of management orders: furniture

- (1) Subsection (2) applies where, on the date on which an interim or final management order comes into force, there is furniture in the house which a person occupying the house has the right to use in consideration of periodical payments to a person who is an immediate landlord of the house or a part of it (whether the payments are included in the rent payable by the occupier or not).
- (2) The right to possession of the furniture against all persons other than the occupier vests in the local housing authority on that date and remains vested in the authority while the order is in force.
- (3) The local housing authority may renounce the right to possession of the furniture conferred by subsection (2) if—
  - (a) an application in writing has been made to them for the purpose by the person owning the furniture, and
  - (b) they renounce the right by notice in writing served on that person not less than two weeks before the notice takes effect.
- (4) If the authority’s right to possession of furniture conferred by subsection (2) is a right exercisable against more than one person interested in the furniture, any of those persons may apply to [<sup>F32</sup>the appropriate tribunal] for an adjustment of their respective rights and liabilities as regards the furniture.
- (5) On such an application the tribunal may make an order for such an adjustment of rights and liabilities, either unconditionally or subject to such terms and conditions, as it considers appropriate.
- (6) The terms and conditions may, in particular, include terms and conditions about the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise.
- (7) In this section “furniture” includes fittings and other articles.

#### Textual Amendments

**F32** Words in s. 126(4) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 165 (with Sch. 3)

#### Commencement Information

**I26** S. 126 wholly in force at 16.6.2006; s. 126 not in force at Royal Assent see s. 270(4)(5); s. 126 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 126 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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## 127 Management orders: power to supply furniture

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

### Commencement Information

**I27** [S. 127](#) wholly in force at 16.6.2006; [s. 127](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 127](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 127](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 128 Compensation payable to third parties

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

### Commencement Information

**I28** [S. 128](#) wholly in force at 16.6.2006; [s. 128](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 128](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 128](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 129 Termination of management orders: financial arrangements

- (1) This section applies where an interim or final management order ceases to have effect for any reason.
- (2) If, on the termination date for an interim management order [<sup>F33</sup>that is not made under section 102(7A)], the total amount of rent or other payments collected or recovered as mentioned in section 110(3) exceeds the total amount of—
  - (a) the local housing authority’s relevant expenditure, and
  - (b) any amounts of compensation payable to third parties by virtue of decisions of the authority under section 128,the authority must, as soon as practicable after the termination date, pay the balance to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate.

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**Changes to legislation:** *Housing Act 2004, Part 4 is up to date with all changes known to be in force on or before 21 May 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) View outstanding changes*

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- (3) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) is less than the total amount of—
  - (a) the authority's relevant expenditure, and
  - (b) any amounts of compensation payable as mentioned in subsection (2)(b),the difference is recoverable by the authority from such relevant landlord, or such relevant landlords in such proportions, as they consider appropriate.
- (4) If, on the termination date for a final management order, any amount is payable to—
  - (a) a third party, or
  - (b) any relevant landlord in accordance with the management scheme under section 119,that amount must be paid to that person by the local housing authority in the manner provided by the scheme.
- (5) If, on the termination date for a final management order, any amount is payable to the local housing authority in accordance with the management scheme, that amount is recoverable by the local housing authority—
  - (a) from such relevant landlord, or
  - (b) from such relevant landlords in such proportions,as is provided by the scheme.
- (6) The provisions of any of subsections (2) to (5) do not, however, apply in relation to the order if —
  - (a) the order is followed by a final management order, and
  - (b) the management scheme contained in that final management order provides for that subsection not to apply in relation to the order (see section 119(5)(c) and (d)).
- (7) Any sum recoverable by the authority under subsection (3) or (5) is, until recovered, a charge on the house.
- (8) The charge takes effect on the termination date for the order as a legal charge which is a local land charge.
- (9) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (10) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.
- (11) If the order is to be followed by a licence granted under Part 2 or 3 in respect of the house, the conditions contained in the licence may include a condition requiring the licence holder—
  - (a) to repay to the authority any amount recoverable by them under subsection (3) or (5), and
  - (b) to do so in such instalments as are specified in the licence.
- (12) In this section—

“relevant expenditure” has the same meaning as in section 110;



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“relevant landlord” means a person who was the immediate landlord of the house or part of it immediately before the termination date or his successor in title for the time being;

“rent or other payments” means rents or other payments payable under leases or licences or in respect of furniture within section 126(1);

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

#### Textual Amendments

**F33** Words in s. 129(2) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 3 para. 11](#); [S.I. 2018/393](#), reg. 2(b)

#### Commencement Information

**I29** S. 129 wholly in force at 16.6.2006; s. 129 not in force at Royal Assent see s. 270(4)(5); s. 129 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 129 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 130 Termination of management orders: leases, agreements and proceedings

- (1) This section applies where—
  - (a) an interim or final management order ceases to have effect for any reason, and
  - (b) the order is not immediately followed by a further order under this Chapter.
- (2) As from the termination date—
  - (a) a lease or licence in which the local housing authority was substituted for another party by virtue of section 124(4) has effect with the substitution of the original party, or his successor in title, for the authority; and
  - (b) an agreement which (in accordance with section 108 or 117) has effect as a lease or licence granted by the authority under section 107 or 116 has effect with the substitution of the relevant landlord for the authority.
- (3) If the relevant landlord is a lessee, nothing in a superior lease imposes liability on him or any superior lessee in respect of anything done before the termination date in pursuance of the terms of an agreement to which subsection (2)(b) applies.
- (4) If the condition in subsection (5) is met, any other agreement entered into by the authority in the performance of their duties under section 106(1) to (3) or 115(2) in respect of the house has effect, as from the termination date, with the substitution of the relevant landlord for the authority.
- (5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that subsection (4) applies to the agreement.
- (6) If the condition in subsection (7) is met—
  - (a) any rights or liabilities that were rights or liabilities of the authority immediately before the termination date by virtue of any provision of this Chapter or under any agreement to which subsection (4) applies are rights or liabilities of the relevant landlord instead, and
  - (b) any proceedings instituted or continued by or against the authority by virtue of any such provision or agreement may be continued by or against the relevant landlord instead,

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as from the termination date.

- (7) The condition is that the authority serve a notice on all interested parties stating that subsection (6) applies to the rights or liabilities or (as the case may be) the proceedings.
- (8) If by virtue of this section a relevant landlord becomes subject to any liability to pay damages in respect of anything done (or omitted to be done) before the termination date by or on behalf of the authority, the authority are liable to reimburse to the relevant landlord an amount equal to the amount of the damages paid by him.
- (9) Where two or more persons are relevant landlords in relation to different parts of the house, any reference in this section to “the relevant landlord” is to be taken to refer to such one or more of them as is determined by agreement between them or (in default of agreement) by [<sup>F34</sup>the appropriate tribunal] on an application made by any of them.
- (10) This section applies to instruments as it applies to agreements.
- (11) In this section—
  - “agreement” includes arrangement;
  - “relevant landlord” means a person who was the immediate landlord of the house immediately before the termination date or his successor in title for the time being;
  - “the termination date” means the date on which the order ceases to have effect.

#### Textual Amendments

**F34** Words in s. 130(9) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 166](#) (with [Sch. 3](#))

#### Commencement Information

**I30** S. 130 wholly in force at 16.6.2006; s. 130 not in force at Royal Assent see s. 270(4)(5); s. 130 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 130 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 131 Management orders: power of entry to carry out work

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

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him to permit to be done on the premises anything which the authority consider to be necessary.

- (5) A person who fails to comply with an order of the court under subsection (4) commits an offence.
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I31** [S. 131](#) wholly in force at 16.6.2006; [s. 131](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 131](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 131](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 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;
  - (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;

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- (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.

#### Commencement Information

**I32** [S. 132](#) wholly in force at 16.6.2006; [s. 132](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 132](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 132](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### *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 [<sup>F35</sup>the appropriate 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.

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- (3) Before determining whether to make an application to [<sup>F36</sup>the appropriate 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 [<sup>F37</sup>the appropriate 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 [<sup>F38</sup>the appropriate 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).

#### Textual Amendments

- F35** Words in s. 133(1)(b) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 167](#) (with Sch. 3)
- F36** Words in s. 133(3) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 167](#) (with Sch. 3)
- F37** Words in s. 133(4) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 167](#) (with Sch. 3)
- F38** Words in s. 133(6) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 167](#) (with Sch. 3)

**Changes to legislation:** Housing Act 2004, Part 4 is up to date with all changes known to be in force on or before 21 May 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) View outstanding changes

### Commencement Information

**I33** S. 133 wholly in force at 16.6.2006; s. 133 not in force at Royal Assent see s. 270(4)(5); s. 133 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 133 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 134 Authorisation to make interim EDMOs

- (1) [<sup>F39</sup>The appropriate 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,
  - (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.



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(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.

#### Textual Amendments

**F39** Words in [s. 134\(1\)](#) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 168](#) (with [Sch. 3](#))

#### Commencement Information

**I34** S. 134 wholly in force at 16.6.2006; s. 134 in force for certain purposes at Royal Assent see [s. 270\(2\)\(b\)](#); s. 134 in force for E. at 6.7.2006 by [S.I. 2006/1060](#), [art. 2\(2\)\(b\)](#) (with [Sch.](#)); s. 134 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

### 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.
- (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.

#### Commencement Information

**I35** [S. 135](#) wholly in force at 16.6.2006; [s. 135](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 135](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 135](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

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### *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;
  - (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



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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).

#### Commencement Information

**I36** S. 136 wholly in force at 16.6.2006; s. 136 not in force at Royal Assent see s. 270(4)(5); s. 136 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 136 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 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.

#### Commencement Information

**I37** S. 137 wholly in force at 16.6.2006; s. 137 not in force at Royal Assent see s. 270(4)(5); s. 137 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 137 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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## 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 [<sup>F40</sup>the appropriate 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.

#### Textual Amendments

**F40** Words in s. 138(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 169](#) (with [Sch. 3](#))

#### Commencement Information

**I38** S. 138 wholly in force at 16.6.2006; s. 138 not in force at Royal Assent see s. 270(4)(5); s. 138 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 138 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## CHAPTER 3

### OVERCROWDING NOTICES

### 139 Service of overcrowding notices

- (1) This Chapter applies to any HMO—
  - (a) in relation to which no interim or final management order is in force; and
  - (b) which is not required to be licensed under Part 2.
- (2) The local housing authority may serve an overcrowding notice on one or more relevant persons if, having regard to the rooms available, it considers that an excessive number of persons is being, or is likely to be, accommodated in the HMO concerned.
- (3) The authority must, at least 7 days before serving an overcrowding notice—
  - (a) inform in writing every relevant person (whether or not the person on whom the authority is to serve the notice) of their intention to serve the notice; and

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- (b) ensure that, so far as is reasonably possible, every occupier of the HMO concerned is informed of the authority's intention.
- (4) The authority must also give the persons informed under subsection (3) an opportunity of making representations about the proposal to serve an overcrowding notice.
- (5) An overcrowding notice becomes operative, if no appeal is brought under section 143, at the end of the period of 21 days from the date of service of the notice.
- (6) If no appeal is brought under section 143, an overcrowding notice is final and conclusive as to matters which could have been raised on such an appeal.
- (7) A person who contravenes an overcrowding notice commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In proceedings for an offence under subsection (7) it is a defence that the person had a reasonable excuse for contravening the notice.
- (9) In this section “relevant person” means a person who is, to the knowledge of the local housing authority—
  - (a) a person having an estate or interest in the HMO concerned, or
  - (b) a person managing or having control of it.
- [<sup>F41</sup>(10) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
- (11) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.]

#### Textual Amendments

- F41** S. 139(10)(11) inserted (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 9 para. 5**; [S.I. 2017/281](#), reg. 4(f)

#### Modifications etc. (not altering text)

- C1** S. 139 modified (E.) (1.10.2007) by [The Houses in Multiple Occupation \(Certain Blocks of Flats\) \(Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs\) \(England\) Regulations 2007 \(S.I. 2007/1904\)](#), {reg 11}
- C2** S. 139 modified (W.) (5.12.2007) by [The Houses in Multiple Occupation \(Certain Blocks of Flats\) \(Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs\) \(Wales\) Regulations 2007 \(S.I. 2007/3231\)](#), **reg. 11**

#### Commencement Information

- I39** S. 139 wholly in force at 16.6.2006; s. 139 not in force at Royal Assent see s. 270(4)(5); s. 139 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with [Sch.](#)); s. 139 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with [Sch.](#))

## 140 Contents of overcrowding notices

- (1) An overcrowding notice must state in relation to each room in the HMO concerned—
  - (a) what the local housing authority consider to be the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time; or

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- (b) that the local housing authority consider that the room is unsuitable to be occupied as sleeping accommodation.
- (2) An overcrowding notice may specify special maxima applicable where some or all of the persons occupying a room are under such age as may be specified in the notice.
- (3) An overcrowding notice must contain—
  - (a) the requirement prescribed by section 141 (not to permit excessive number of persons to sleep in the house in multiple occupation); or
  - (b) the requirement prescribed by section 142 (not to admit new residents if number of persons is excessive).
- (4) The local housing authority may at any time—
  - (a) withdraw an overcrowding notice which has been served on any person and which contains the requirement prescribed by section 142, and
  - (b) serve on him instead an overcrowding notice containing the requirement prescribed by section 141.

#### Commencement Information

**I40** S. 140 wholly in force at 16.6.2006; s. 140 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 140 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 140 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

### 141 Requirement as to overcrowding generally

- (1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from—
  - (a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice; or
  - (b) permitting persons to occupy the HMO as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as [<sup>F42</sup>a married couple or civil partners] sleeping in the same room.
- (2) For the purposes of subsection (1)(b)—
  - (a) children under the age of 10 are to be disregarded; and
  - (b) it must be assumed that the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

#### Textual Amendments

**F42** Words in s. 141(1)(b) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), Sch. 3 para. 26(2)

#### Commencement Information

**I41** S. 141 wholly in force at 16.6.2006; s. 141 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 141 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 141 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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## 142 Requirement as to new residents

- (1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from—
  - (a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice; or
  - (b) permitting a new resident to occupy any part of the HMO as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as [<sup>F43</sup>a married couple or civil partners] sleeping in the same room.
- (2) In subsection (1) “new resident” means a person who was not an occupier of the HMO immediately before the notice was served.
- (3) For the purposes of subsection (1)(b)—
  - (a) children under the age of 10 are to be disregarded; and
  - (b) it must be assumed that the persons occupying any part of the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

### Textual Amendments

- F43** Words in s. 142(1)(b) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 26\(3\)](#)

### Commencement Information

- I42** S. 142 wholly in force at 16.6.2006; s. 142 in force for certain purposes at Royal Assent see s. 270(2) (b); s. 142 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); s. 142 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

## 143 Appeals against overcrowding notices

- (1) A person aggrieved by an overcrowding notice may appeal to [<sup>F44</sup>the appropriate tribunal] within the period of 21 days beginning with the date of service of the notice.
- (2) Such an 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) On an appeal the tribunal may by order confirm, quash or vary the notice.
- (4) If an appeal is brought, the notice does not become operative until—
  - (a) a decision is given on the appeal which confirms the notice and the period within which an appeal to the [<sup>F45</sup>Upper Tribunal] may be brought expires without any such appeal having been brought; or
  - (b) if an appeal is brought to the [<sup>F45</sup>Upper Tribunal], a decision is given on the appeal which confirms the notice.
- (5) For the purposes of subsection (4)—
  - (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against; and

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- (b) references to a decision which confirms the notice are to a decision which confirms it with or without variation.
- (6) [<sup>F46</sup>The appropriate tribunal] may allow an appeal to be made to it after the end of the period mentioned in subsection (1) 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).

#### Textual Amendments

- F44** Words in s. 143(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 170(a)** (with Sch. 3)
- F45** Words in s. 143(4)(a)(b) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 274** (with Sch. 5)
- F46** Words in s. 143(6) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 170(b)** (with Sch. 3)

#### Commencement Information

- I43** S. 143 wholly in force at 16.6.2006; s. 143 not in force at Royal Assent see s. 270(4)(5); s. 143 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with Sch.); s. 143 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with Sch.)

### 144 Revocation and variation of overcrowding notices

- (1) The local housing authority may at any time, on the application of a relevant person—
  - (a) revoke an overcrowding notice; or
  - (b) vary it so as to allow more people to be accommodated in the HMO concerned.
- (2) The applicant may appeal to [<sup>F47</sup>the appropriate tribunal] if the local housing authority—
  - (a) refuse an application under subsection (1); or
  - (b) do not notify the applicant of their decision within the period of 35 days beginning with the making of the application (or within such further period as the applicant may in writing allow).
- (3) An appeal under subsection (2) must be made within—
  - (a) the period of 21 days beginning with the date when the applicant is notified by the authority of their decision to refuse the application, or
  - (b) the period of 21 days immediately following the end of the period (or further period) applying for the purposes of paragraph (b) of that subsection, as the case may be.
- (4) Section 143(2) applies to such an appeal as it applies to an appeal under that section.
- (5) On an appeal the tribunal may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.
- (6) [<sup>F48</sup>The appropriate tribunal] may allow an appeal to be made to it after the end of the 21-day period mentioned in subsection (3)(a) or (b) 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).
- (7) In this section “relevant person” means—

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- (a) any person who has an estate or interest in the HMO concerned, or
- (b) any other person who is a person managing or having control of it.

#### Textual Amendments

- F47** Words in s. 144(2) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 171(a)** (with [Sch. 3](#))
- F48** Words in s. 144(6) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 171(b)** (with [Sch. 3](#))

#### Commencement Information

- I44** S. 144 wholly in force at 16.6.2006; s. 144 not in force at Royal Assent see s. 270(4)(5); s. 144 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with [Sch.](#)); s. 144 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with [Sch.](#))

## CHAPTER 4

### SUPPLEMENTARY PROVISIONS

#### 145 Supplementary provisions

- (1) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of Chapter 1 or 2 in relation to cases where a local housing authority are to be treated as the lessee under a lease under—
  - (a) section 107(5) or 116(5), or
  - (b) paragraph 2(6) or 10(6) of Schedule 7.
- (2) Regulations under this section may, in particular, make provision—
  - (a) as respects rights and liabilities in such cases of—
    - (i) the authority,
    - (ii) the person who (apart from the relevant provision mentioned in subsection (1)) is the lessee under the lease, or
    - (iii) other persons having an estate or interest in the premises demised under the lease;
  - (b) requiring the authority to give copies to the person mentioned in paragraph (a) (ii) of notices and other documents served on them in connection with the lease;
  - (c) for treating things done by or in relation to the authority as done by or in relation to that person, or vice versa.

#### Commencement Information

- I45** S. 145 wholly in force at 16.6.2006; s. 145 in force for certain purposes at Royal Assent see s. 270(2) (b); s. 145 in force for E. at 6.4.2006 by [S.I. 2006/1060](#), **art. 2(1)(a)** (with [Sch.](#)); s. 145 in force for W. at 16.6.2006 by [S.I. 2006/1535](#), **art. 2(a)** (with [Sch.](#))



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## 146 Interpretation and modification of this Part

(1) In this Part—

“HMO” means a house in multiple occupation as defined by sections 254 to 259,

“Part 3 house” means a house to which Part 3 of this Act applies (see section 79(2)),

and any reference to an HMO or Part 3 house includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

(2) For the purposes of this Part “mortgage” includes a charge or lien, and “mortgagee” is to be read accordingly.

(3) The appropriate national authority may by regulations provide for—

(a) any provision of this Part, or

(b) section 263 (in its operation for the purposes of any such provision),

to have effect in relation to a section 257 HMO with such modifications as are prescribed by the regulations.

(4) A “section 257 HMO” is an HMO which is a converted block of flats to which section 257 applies.

### Commencement Information

**146** S. 146 wholly in force at 16.6.2006; s. 146 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 146 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); s. 146 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

## 147 Index of defined expressions: Part 4

The following table shows where expressions used in this Part are defined or otherwise explained.

| <i>Expression</i>              | <i>Provision of this Act</i> |
|--------------------------------|------------------------------|
| Appropriate national authority | Section 261(1)               |
| Dwelling                       | Section 132(4)(a) and (b)    |
| Final EDMO                     | Section 132(1)(b)            |
| Final management order         | Section 101(4)               |
| Health                         | Section 2(5)                 |
| HMO                            | Section 146(1)               |
| The house                      | Section 101(5) or 103(8)     |
| Immediate landlord             | Section 109(6) or 118(6)     |
| Interim EDMO                   | Section 132(1)(a)            |
| Interim management order       | Section 101(3)               |
| Landlord                       | Section 262(3)               |

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|                                       |                           |
|---------------------------------------|---------------------------|
| Lease, lessee, etc.                   | Section 262(1) to (4)     |
| Licence (to occupy premises)          | Section 262(9)            |
| Local housing authority               | Section 261(2) to (5)     |
| Modifications                         | Section 250(7)            |
| Mortgage, mortgagee                   | Section 146(2)            |
| Occupier (and related expressions)    | Section 262(6)            |
| Owner                                 | Section 262(7)            |
| Part 3 house                          | Section 146(1)            |
| Person having control                 | Section 263(1) and (2)    |
| Person having estate or interest      | Section 262(8)            |
| Person managing                       | Section 263(3)            |
| Relevant proprietor                   | Section 132(4)(c) and (5) |
| Rent or other payments (in Chapter 2) | Section 132(4)(e)         |
| Residential property tribunal         | Section 229               |
| Tenancy, tenant, etc.                 | Section 262(1) to (5)     |
| Third party (in Chapter 1)            | Section 101(7)            |
| Third party (in Chapter 2)            | Section 132(4)(d).        |

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#### Commencement Information

**I47** [S. 147](#) wholly in force at 16.6.2006; [s. 147](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 147](#) in force for E. at 6.4.2006 by [S.I. 2006/1060](#), [art. 2\(1\)\(a\)](#) (with [Sch.](#)); [s. 147](#) in force for W. at 16.6.2006 by [S.I. 2006/1535](#), [art. 2\(a\)](#) (with [Sch.](#))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172](#) Regulations

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)