

## SCHEDULES

### SCHEDULE 1

Section 18

#### PROCEDURE AND APPEALS RELATING TO IMPROVEMENT NOTICES

##### PART 1

###### SERVICE OF IMPROVEMENT NOTICES

###### *Service of improvement notices: premises licensed under Part 2 or 3*

- 1 (1) This paragraph applies where the specified premises in the case of an improvement notice are—
- (a) a dwelling which is licensed under Part 3 of this Act, or
  - (b) an HMO which is licensed under Part 2 or 3 of this Act.
- (2) The local housing authority must serve the notice on the holder of the licence under that Part.

###### *Service of improvement notices: premises which are neither licensed under Part 2 or 3 nor flats*

- 2 (1) This paragraph applies where the specified premises in the case of an improvement notice are—
- (a) a dwelling which is not licensed under Part 3 of this Act, or
  - (b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is not a flat.
- (2) The local housing authority must serve the notice—
- (a) (in the case of a dwelling) on the person having control of the dwelling;
  - (b) (in the case of an HMO) either on the person having control of the HMO or on the person managing it.

###### *Service of improvement notices: flats which are not licensed under Part 2 or 3*

- 3 (1) This paragraph applies where any specified premises in the case of an improvement notice are—
- (a) a dwelling which is not licensed under Part 3 of this Act, or
  - (b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is a flat.
- (2) In the case of dwelling which is a flat, the local housing authority must serve the notice on a person who—
- (a) is an owner of the flat, and
  - (b) in the authority's opinion ought to take the action specified in the notice.

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- (3) In the case of an HMO which is a flat, the local housing authority must serve the notice either on a person who—
- (a) is an owner of the flat, and
  - (b) in the authority’s opinion ought to take the action specified in the notice,
- or on the person managing the flat.

*Service of improvement notices: common parts*

- 4 (1) This paragraph applies where any specified premises in the case of an improvement notice are—
- (a) common parts of a building containing one or more flats; or
  - (b) any part of such a building which does not consist of residential premises.
- (2) The local housing authority must serve the notice on a person who—
- (a) is an owner of the specified premises concerned, and
  - (b) in the authority’s opinion ought to take the action specified in the notice.
- (3) For the purposes of this paragraph a person is an owner of any common parts of a building if he is an owner of the building or part of the building concerned, or (in the case of external common parts) of the particular premises in which the common parts are comprised.

*Service of copies of improvement notices*

- 5 (1) In addition to serving an improvement notice in accordance with any of paragraphs 1 to 4, the local housing authority must serve a copy of the notice on every other person who, to their knowledge—
- (a) has a relevant interest in any specified premises, or
  - (b) is an occupier of any such premises.
- (2) A “relevant interest” means an interest as freeholder, mortgagee or lessee.
- (3) For the purposes of this paragraph a person has a relevant interest in any common parts of a building if he has a relevant interest in the building or part of the building concerned, or (in the case of external common parts) in the particular premises in which the common parts are comprised.
- (4) The copies required to be served under sub-paragraph (1) must be served within the period of seven days beginning with the day on which the notice is served.

## PART 2

### SERVICE OF NOTICES RELATING TO REVOCATION OR VARIATION OF IMPROVEMENT NOTICES

*Notice of revocation or variation*

- 6 (1) This paragraph applies where the local housing authority decide to revoke or vary an improvement notice.
- (2) The authority must serve—
- (a) a notice under this paragraph, and

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- (b) copies of that notice,  
on the persons on whom they would be required under Part 1 of this Schedule to serve an improvement notice and copies of it in respect of the specified premises.
  - (3) Sub-paragraph (4) applies if, in so doing, the authority serve a notice under this paragraph on a person who is not the person on whom the improvement notice was served (“the original recipient”).
  - (4) The authority must serve a copy of the notice under this paragraph on the original recipient unless they consider that it would not be appropriate to do so.
  - (5) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- 7 A notice under paragraph 6 must set out—
- (a) the authority’s decision to revoke or vary the improvement notice;
  - (b) the reasons for the decision and the date on which it was made;
  - (c) if the decision is to vary the notice—
    - (i) the right of appeal against the decision under Part 3 of this Schedule, and
    - (ii) the period within which an appeal may be made (see paragraph 14(2)).

*Notice of refusal to revoke or vary notice*

- 8 (1) This paragraph applies where the local housing authority refuse to revoke or vary an improvement notice.
- (2) The authority must serve—
- (a) a notice under this paragraph, and
  - (b) copies of that notice,
- on the persons on whom they would be required to serve an improvement notice and copies of it under Part 1 of this Schedule.
- (3) Sub-paragraph (4) applies if, in so doing, the authority serve a notice under this paragraph on a person who is not the person on whom the improvement notice was served (“the original recipient”).
- (4) The authority must serve a copy of the notice under this paragraph on the original recipient unless they consider that it would not be appropriate to do so.
- (5) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- 9 A notice under paragraph 8 must set out—
- (a) the authority’s decision not to revoke or vary the improvement notice;
  - (b) the reasons for the decision and the date on which it was made;
  - (c) the right of appeal against the decision under Part 3 of this Schedule; and
  - (d) the period within which an appeal may be made (see paragraph 14(2)).

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### PART 3

#### APPEALS RELATING TO IMPROVEMENT NOTICES

##### *Appeal against improvement notice*

- 10 (1) The person on whom an improvement notice is served may appeal to a residential property tribunal against the notice.
- (2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).
- 11 (1) An appeal may be made by a person under paragraph 10 on the ground that one or more other persons, as an owner or owners of the specified premises, ought to—
- (a) take the action concerned, or
  - (b) pay the whole or part of the cost of taking that action.
- (2) Where the grounds on which an appeal is made under paragraph 10 consist of or include the ground mentioned in sub-paragraph (1), the appellant must serve a copy of his notice of appeal on the other person or persons concerned.
- 12 (1) An appeal may be made by a person under paragraph 10 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the notice was served.
- (2) The courses of action are—
- (a) making a prohibition order under section 20 or 21 of this Act;
  - (b) serving a hazard awareness notice under section 28 or 29 of this Act; and
  - (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

##### *Appeal against decision relating to variation or revocation of improvement notice*

- 13 (1) The relevant person may appeal to a residential property tribunal against—
- (a) a decision by the local housing authority to vary an improvement notice, or
  - (b) a decision by the authority to refuse to revoke or vary an improvement notice.
- (2) In sub-paragraph (1) “the relevant person” means—
- (a) in relation to a decision within paragraph (a) of that provision, the person on whom the notice was served;
  - (b) in relation to a decision within paragraph (b) of that provision, the person who applied for the revocation or variation.

##### *Time limit for appeal*

- 14 (1) Any appeal under paragraph 10 must be made within the period of 21 days beginning with the date on which the improvement notice was served in accordance with Part 1 of this Schedule.
- (2) Any appeal under paragraph 13 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 6 or 8 as the date on which the decision concerned was made.

- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

*Powers of residential property tribunal on appeal under paragraph 10*

- 15 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 10.
- (2) The appeal—
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may by order confirm, quash or vary the improvement notice.
- (4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.
- 16 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 11.
- (2) On the hearing of the appeal the tribunal may—
- (a) vary the improvement notice so as to require the action to be taken by any owner mentioned in the notice of appeal in accordance with paragraph 11; or
  - (b) make such order as it considers appropriate with respect to the payment to be made by any such owner to the appellant or, where the action is taken by the local housing authority, to the authority.
- (3) In the exercise of its powers under sub-paragraph (2), the tribunal must take into account, as between the appellant and any such owner—
- (a) their relative interests in the premises concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
  - (b) their relative responsibility for the state of the premises which gives rise to the need for the taking of the action concerned; and
  - (c) the relative degree of benefit to be derived from the taking of the action concerned.
- (4) Sub-paragraph (5) applies where, by virtue of the exercise of the tribunal's powers under sub-paragraph (2), a person other than the appellant is required to take the action specified in an improvement notice.
- (5) So long as that other person remains an owner of the premises to which the notice relates, he is to be regarded for the purposes of this Part as the person on whom the notice was served (in place of any other person).
- 17 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 12.
- (2) When deciding whether one of the courses of action mentioned in paragraph 12(2) is the best course of action in relation to a particular hazard, the tribunal must have regard to any guidance given to the local housing authority under section 9.

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- (3) Sub-paragraph (4) applies where—
- (a) an appeal under paragraph 10 is allowed against an improvement notice in respect of a particular hazard; and
  - (b) the reason, or one of the reasons, for allowing the appeal is that one of the courses of action mentioned in paragraph 12(2) is the best course of action in relation to that hazard.
- (4) The tribunal must, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.

*Powers of residential property tribunal on appeal under paragraph 13*

- 18 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 13.
- (2) Paragraph 15(2) applies to such an appeal as it applies to an appeal under paragraph 10.
- (3) The tribunal may by order confirm, reverse or vary the decision of the local housing authority.
- (4) If the appeal is against a decision of the authority to refuse to revoke an improvement notice, the tribunal may make an order revoking the notice as from a date specified in the order.

*“The operative time” for the purposes of section 15(5)*

- 19 (1) This paragraph defines “the operative time” for the purposes of section 15(5) (operation of improvement notices).
- (2) If an appeal is made under paragraph 10 against an improvement notice which is not suspended, and a decision on the appeal is given which confirms the notice, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the notice.
- (3) If an appeal is made under paragraph 10 against an improvement notice which is suspended, and a decision is given on the appeal which confirms the notice, “the operative time” is as follows—
- (a) the time that would be the operative time under sub-paragraph (2) if the notice were not suspended, or
  - (b) if later, the time when the suspension ends.
- (4) For the purposes of sub-paragraph (2) or (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice, and
  - (b) references to a decision which confirms the notice are to a decision which confirms it with or without variation.

*“The operative time” for the purposes of section 16(7)*

- 20 (1) This paragraph defines “the operative time” for the purposes of section 16(7) (postponement of time when a variation of an improvement notice comes into force).
- (2) If no appeal is made under paragraph 13 before the end of the period of 28 days mentioned in paragraph 14(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 13 before the end of that period and a decision is given on the appeal which confirms the variation, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation, and
  - (b) references to a decision which confirms the variation are to a decision which confirms it with or without variation.

## SCHEDULE 2

Section 27

### PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS

#### PART 1

##### SERVICE OF COPIES OF PROHIBITION ORDERS

*Service on owners and occupiers of dwelling or HMO which is not a flat*

- 1 (1) This paragraph applies to a prohibition order where the specified premises are a dwelling or HMO which is not a flat.
- (2) The authority must serve copies of the order on every person who, to their knowledge, is—
- (a) an owner or occupier of the whole or part of the specified premises;
  - (b) authorised to permit persons to occupy the whole or part of those premises; or
  - (c) a mortgagee of the whole or part of those premises.
- (3) The copies required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the order is made.
- (4) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (3) if a copy of the order is fixed to some conspicuous part of the specified premises within the period of seven days mentioned in sub-paragraph (3).

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*Service on owners and occupiers of building containing flats etc.*

- 2 (1) This paragraph applies to a prohibition order where the specified premises consist of or include the whole or any part of a building containing one or more flats or any common parts of such a building.
- (2) The authority must serve copies of the order on every person who, to their knowledge, is—
- (a) an owner or occupier of the whole or part of the building;
  - (b) authorised to permit persons to occupy the whole or part of the building; or
  - (c) a mortgagee of the whole or part of the building.
- (3) Where the specified premises consist of or include any external common parts of such a building, the authority must, in addition to complying with sub-paragraph (2), serve copies of the order on every person who, to their knowledge, is an owner or mortgagee of the premises in which the common parts are comprised.
- (4) The copies required to be served under sub-paragraph (2) or (3) must be served within the period of seven days beginning with the day on which the order is made.
- (5) A copy of the order is to be regarded as having been served on every occupier in accordance with sub-paragraphs (2)(a) and (4) if a copy of the order is fixed to some conspicuous part of the building within the period of seven days mentioned in sub-paragraph (4).

## PART 2

### SERVICE OF NOTICES RELATING TO REVOCATION OR VARIATION OF PROHIBITION ORDERS

*Notice of revocation or variation*

- 3 (1) This paragraph applies where the local housing authority decide to revoke or vary a prohibition order.
- (2) The authority must serve a notice under this paragraph on each of the persons on whom they would be required under Part 1 of this Schedule to serve copies of a prohibition order in respect of the specified premises.
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- (4) Paragraph 1(4) applies in relation to the service of notices on occupiers in accordance with sub-paragraphs (2) and (3) as it applies in relation to the service on them of copies of a prohibition order in accordance with paragraph 1(2)(a) and (3).
- 4 A notice under paragraph 3 must set out—
- (a) the authority's decision to revoke or vary the order;
  - (b) the reasons for the decision and the date on which it was made;
  - (c) if the decision is to vary the order—
    - (i) the right of appeal against the decision under Part 3 of this Schedule; and
    - (ii) the period within which an appeal may be made (see paragraph 10(2)).



*Notice of refusal to revoke or vary order*

- 5 (1) This paragraph applies where the local housing authority refuse to revoke or vary a prohibition order.
- (2) The authority must serve a notice under this paragraph on each of the persons on whom they would be required under Part 1 of this Schedule to serve copies of a prohibition order in respect of the specified premises.
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- (4) Paragraph 1(4) applies in relation to the service of notices on occupiers in accordance with sub-paragraphs (2) and (3) as it applies in relation to the service on them of copies of a prohibition order in accordance with paragraph 1(2)(a) and (3).
- 6 A notice under paragraph 5 must set out—
- (a) the authority's decision not to revoke or vary the notice;
  - (b) the reasons for the decision and the date on which it was made;
  - (c) the right of appeal against the decision under Part 3 of this Schedule; and
  - (d) the period within which an appeal may be made (see paragraph 10(2)).

### PART 3

#### APPEALS RELATING TO PROHIBITION ORDERS

*Appeal against prohibition order*

- 7 (1) A relevant person may appeal to a residential property tribunal against a prohibition order.
- (2) Paragraph 8 sets out a specific ground on which an appeal may be made under this paragraph, but it does not affect the generality of sub-paragraph (1).
- 8 (1) An appeal may be made by a person under paragraph 7 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the order was made.
- (2) The courses of action are—
- (a) serving an improvement notice under section 11 or 12 of this Act;
  - (b) serving a hazard awareness notice under section 28 or 29 of this Act;
  - (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

*Appeal against decision relating to revocation or variation of prohibition order*

- 9 A relevant person may appeal to a residential property tribunal against—
- (a) a decision by the local housing authority to vary a prohibition order, or
  - (b) a decision by the authority to refuse to revoke or vary a prohibition order.

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### *Time limit for appeal*

- 10 (1) Any appeal under paragraph 7 must be made within the period of 28 days beginning with the date specified in the prohibition order as the date on which the order was made.
- (2) Any appeal under paragraph 9 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 3 or 5 as the date on which the decision concerned was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

### *Powers of residential property tribunal on appeal under paragraph 7*

- 11 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 7.
- (2) The appeal—
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may by order confirm, quash or vary the prohibition order.
- (4) Paragraph 12 makes special provision in connection with the ground of appeal set out in paragraph 8.
- 12 (1) This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 8.
- (2) When deciding whether one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to a particular hazard, the tribunal must have regard to any guidance given to the local housing authority under section 9.
- (3) Sub-paragraph (4) applies where—
- (a) an appeal under paragraph 7 is allowed against a prohibition order made in respect of a particular hazard; and
  - (b) the reason, or one of the reasons, for allowing the appeal is that one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to that hazard.
- (4) The tribunal must, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.

### *Powers of residential property tribunal on appeal under paragraph 9*

- 13 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 9.
- (2) Paragraph 11(2) applies to such an appeal as it applies to an appeal under paragraph 7.

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- (3) The tribunal may by order confirm, reverse or vary the decision of the local housing authority.
- (4) If the appeal is against a decision of the authority to refuse to revoke a prohibition order, the tribunal may make an order revoking the prohibition order as from a date specified in its order.

*“The operative time” for the purposes of section 24(5)*

- 14
- (1) This paragraph defines “the operative time” for the purposes of section 24(5) (operation of prohibition orders).
  - (2) If an appeal is made under paragraph 7 against a prohibition order which is not suspended, and a decision on the appeal is given which confirms the order, “the operative time” is as follows—
    - (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
    - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.
  - (3) If an appeal is made under paragraph 7 against a prohibition order which is suspended, and a decision is given on the appeal which confirms the order, “the operative time” is as follows—
    - (a) the time that would be the operative time under sub-paragraph (2) if the order were not suspended, or
    - (b) if later, the time when the suspension ends.
  - (4) For the purposes of sub-paragraph (2) or (3)—
    - (a) the withdrawal of an appeal has the same effect as a decision which confirms the notice, and
    - (b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

*“The operative time” for the purposes of section 25(7)*

- 15
- (1) This paragraph defines “the operative time” for the purposes of section 25(7) (revocation or variation of prohibition orders).
  - (2) If no appeal is made under paragraph 9 before the end of the period of 28 days mentioned in paragraph 10(2), “the operative time” is the end of that period.
  - (3) If an appeal is made under paragraph 10 within that period and a decision is given on the appeal which confirms the variation, “the operative time” is as follows—
    - (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
    - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation.
  - (4) For the purposes of sub-paragraph (3)—
    - (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation, and

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- (b) references to a decision which confirms the variation are to a decision which confirms it with or without variation.

*Meaning of “relevant person”*

- 16 (1) In this Part of this Schedule “relevant person”, in relation to a prohibition order, means a person who is—
- (a) an owner or occupier of the whole or part of the specified premises,
  - (b) authorised to permit persons to occupy the whole or part of those premises, or
  - (c) a mortgagee of the whole or part of those premises.
- (2) If any specified premises are common parts of a building containing one or more flats, then in relation to those specified premises, “relevant person” means every person who is an owner or mortgagee of the premises in which the common parts are comprised.

SCHEDULE 3

Section 31

IMPROVEMENT NOTICES: ENFORCEMENT ACTION BY LOCAL HOUSING AUTHORITIES

**PART 1**

ACTION TAKEN BY AGREEMENT

*Power to take action by agreement*

- 1 (1) The local housing authority may, by agreement with the person on whom an improvement notice has been served, take any action which that person is required to take in relation to any premises in pursuance of the notice.
- (2) For that purpose the authority have all the rights which that person would have against any occupying tenant of, and any other person having an interest in, the premises (or any part of the premises).
- (3) In this paragraph—
- “improvement notice” means an improvement notice which has become operative under Chapter 2 of Part 1 of this Act;
- “occupying tenant”, in relation to any premises, means a person (other than an owner-occupier) who—
- (a) occupies or is entitled to occupy the premises as a lessee;
  - (b) is a statutory tenant of the premises;
  - (c) occupies the premises under a restricted contract;
  - (d) is a protected occupier within the meaning of the Rent (Agriculture) Act 1976 (c. 80); or
  - (e) is a licensee under an assured agricultural occupancy;
- “owner-occupier”, in relation to any premises, means the person who occupies or is entitled to occupy the premises as owner or lessee under a long tenancy (within the meaning of Part 1 of the Leasehold Reform Act 1967 (c. 88)).

*Expenses of taking action by agreement*

- 2 Any action taken by the local housing authority under paragraph 1 is to be taken at the expense of the person on whom the notice is served.

**PART 2**

## POWER TO TAKE ACTION WITHOUT AGREEMENT

*Power to take action without agreement*

- 3 (1) The local housing authority may themselves take the action required to be taken in relation to a hazard by an improvement notice if sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if the notice is not complied with in relation to that hazard.
- (3) This sub-paragraph applies if, before the end of the period which under section 30(2) is appropriate for completion of the action specified in the notice in relation to the hazard, they consider that reasonable progress is not being made towards compliance with the notice in relation to the hazard.
- (4) Any person authorised in writing by the authority may enter any part of the specified premises for the purposes of the taking of any action which the authority are authorised to take under this paragraph.
- (5) The right of entry conferred by sub-paragraph (4) may be exercised at any reasonable time.
- (6) Any reference in this Part of this Schedule (of whatever nature) to a local housing authority entering any premises under this paragraph is a reference to their doing so in accordance with sub-paragraph (4).
- (7) In this paragraph “improvement notice” means an improvement notice which has become operative under Chapter 2 of Part 1 of this Act.

*Notice requirements in relation to taking action without agreement*

- 4 (1) The local housing authority must serve a notice under this paragraph before they enter any premises under paragraph 3 for the purpose of taking action in relation to a hazard.
- (2) The notice must identify the improvement notice to which it relates and state—
- (a) the premises and hazard concerned;
  - (b) that the authority intend to enter the premises;
  - (c) the action which the authority intend to take on the premises; and
  - (d) the power under which the authority intend to enter the premises and take the action.
- (3) The notice must be served on the person on whom the improvement notice was served, and a copy of the notice must be served on any other person who is an occupier of the premises.
- (4) The notice and any such copy must be served sufficiently in advance of the time when the authority intend to enter the premises as to give the recipients reasonable notice of the intended entry.

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- (5) A copy of the notice may also be served on any owner of the premises.

*Obstruction of action taken without agreement*

- 5 (1) If, at any relevant time—
- (a) the person on whom the notice under paragraph 4 was served is on the premises for the purpose of carrying out any works, or
  - (b) any workman employed by that person, or by any contractor employed by that person, is on the premises for such a purpose,
- that person is to be taken to have committed an offence under section 241(1).
- (2) In proceedings for such an offence it is a defence that there was an urgent necessity to carry out the works in order to prevent danger to persons occupying the premises.
- (3) In sub-paragraph (1) “relevant time” means any time—
- (a) after the end of the period of 7 days beginning with the date of service of the notice under paragraph 4, and
  - (b) when any workman or contractor employed by the local housing authority is taking action on the premises which has been mentioned in the notice in accordance with paragraph 4(2)(c).

*Expenses in relation to taking action without agreement*

- 6 (1) Part 3 of this Schedule applies with respect to the recovery by the local housing authority of expenses incurred by them in taking action under paragraph 3.
- (2) Sub-paragraph (3) applies where, after a local housing authority have given notice under paragraph 4 of their intention to enter premises and take action, the action is in fact taken by the person on whom the improvement notice is served.
- (3) Any administrative and other expenses incurred by the authority with a view to themselves taking the action are to be treated for the purposes of Part 3 of this Schedule as expenses incurred by them in taking action under paragraph 3.

### PART 3

#### RECOVERY OF CERTAIN EXPENSES

*Introductory*

- 7 This Part of this Schedule applies for the purpose of enabling a local housing authority to recover expenses reasonably incurred by them in taking action under paragraph 3.

*Recovery of expenses*

- 8 (1) The expenses are recoverable by the local housing authority from the person on whom the improvement notice was served (“the relevant person”).
- (2) Where the relevant person receives the rent of the premises as agent or trustee for another person, the expenses are also recoverable by the local housing authority from the other person, or partly from him and partly from the relevant person.

- (3) Sub-paragraph (4) applies where the relevant person proves in connection with a demand under paragraph 9—
- (a) that sub-paragraph (2) applies, and
  - (b) that he has not, and since the date of the service on him of the demand has not had, in his hands on behalf of the other person sufficient money to discharge the whole demand of the local housing authority.
- (4) The liability of the relevant person is limited to the total amount of the money which he has, or has had, in his hands as mentioned in sub-paragraph (3)(b).
- (5) Expenses are not recoverable under this paragraph so far as they are, by any direction given by a residential property tribunal on an appeal to the tribunal under paragraph 11, recoverable under an order of the tribunal.

#### *Service of demand*

- 9
- (1) A demand for expenses recoverable under paragraph 8, together with interest in accordance with paragraph 10, must be served on each person from whom the local housing authority are seeking to recover them.
  - (2) If no appeal is brought, the demand becomes operative at the end of the period of 21 days beginning with the date of service of the demand.
  - (3) A demand which becomes operative under sub-paragraph (2) is final and conclusive as to matters which could have been raised on an appeal.
  - (4) Paragraph 11 deals with appeals against demands.

#### *Interest*

- 10
- Expenses in respect of which a demand is served carry interest, at such reasonable rate as the local housing authority may determine, from the date of service until payment of all sums due under the demand.

#### *Appeals*

- 11
- (1) A person on whom a demand for the recovery of expenses has been served may appeal to a residential property tribunal against the demand.
  - (2) An appeal must be made within the period of 21 days beginning with the date of service of the demand or copy of it under paragraph 9.
  - (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).
  - (4) Where the demand relates to action taken by virtue of paragraph 3(3), an appeal may be brought on the ground that reasonable progress was being made towards compliance with the improvement notice when the local housing authority gave notice under paragraph 4 of their intention to enter and take the action.

This does not affect the generality of sub-paragraph (1).

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- (5) The tribunal may, on an appeal, make such order confirming, quashing or varying the demand as it considers appropriate.
- (6) A demand against which an appeal is brought becomes operative as follows—
  - (a) if a decision is given on the appeal which confirms the demand and the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, the demand becomes operative at end of that period;
  - (b) if an appeal to the Lands Tribunal is brought and a decision is given on the appeal which confirms the demand, the demand becomes operative at the time of that decision.
- (7) For the purposes of sub-paragraph (6)—
  - (a) the withdrawal of an appeal has the same effect as a decision which confirms the demand, and
  - (b) references to a decision which confirms the demand are to a decision which confirms it with or without variation.
- (8) No question may be raised on appeal under this paragraph which might have been raised on an appeal against the improvement notice.

*Expenses and interest recoverable from occupiers*

- 12 (1) Where a demand becomes operative by virtue of paragraph 9(2) or 11(6), the local housing authority may serve a recovery notice on any person—
  - (a) who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 9(1); and
  - (b) who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served.
- (2) A recovery notice is a notice—
  - (a) stating the amount of expenses recoverable by the local housing authority; and
  - (b) requiring all future payments by the tenant or licensee of rent or sums in the nature of rent (whether already accrued due or not) to be made direct to the authority until the expenses recoverable by the authority, together with any accrued interest on them, have been duly paid.
- (3) In the case of a demand which was served on any person as agent or trustee for another person (“the principal”), sub-paragraph (1) has effect as if the references in paragraphs (a) and (b) to the person on whom the demand was served were references to that person or the principal.
- (4) The effect of a recovery notice, once served under sub-paragraph (1), is to transfer to the local housing authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent.
- (5) This is subject to any direction to the contrary contained in a further notice served by the local housing authority on the tenant or licensee.
- (6) In addition, the right to recover, receive and give a discharge for any rent or sums in the nature of rent is postponed to any right in respect of that rent or those sums



which may at any time be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908 (c. 53).

*Expenses and interest to be a charge on the premises*

- 13 (1) Until recovered, the expenses recoverable by the local housing authority, together with any accrued interest on them, are a charge on the premises to which the improvement notice related.
- (2) The charge takes effect when the demand for the expenses and interest becomes operative by virtue of paragraph 9(2) or 11(6).
- (3) For the purpose of enforcing the charge, the local housing 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.
- (4) The power of appointing a receiver is exercisable at any time after the end of one month beginning with the date when the charge takes effect.

*Recovery of expenses and interest from other persons profiting from taking of action*

- 14 (1) Sub-paragraph (2) applies if, on an application to a residential property tribunal, the local housing authority satisfy the tribunal that—
- (a) the expenses and interest have not been and are unlikely to be recovered; and
- (b) a person is profiting by the taking of the action under paragraph 3 in respect of which the expenses were incurred in that he is obtaining rents or other payments which would not have been obtainable if the number of persons living in the premises was limited to that appropriate for the premises in their state before the action was taken.
- (2) The tribunal may, if satisfied that the person concerned has had proper notice of the application, order him to make such payments to the local housing authority as the tribunal considers to be just.

SCHEDULE 4

Sections 67 and 90

LICENCES UNDER PARTS 2 AND 3: MANDATORY CONDITIONS

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

- 1 (1) A licence under Part 2 or 3 must include the following conditions.
- (2) Conditions requiring the licence holder, if gas is supplied to the house, to produce to the local housing authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months.
- (3) Conditions requiring the licence holder—
- (a) to keep electrical appliances and furniture made available by him in the house in a safe condition;
- (b) to supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture.

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

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

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

*Power to prescribe conditions*

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

*Interpretation*

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

SCHEDULE 5

Sections 71 and 94

LICENCES UNDER PARTS 2 AND 3: PROCEDURE AND APPEALS

**PART 1**

PROCEDURE RELATING TO GRANT OR REFUSAL OF LICENCES

*Requirements before grant of licence*

- 1 Before granting a licence, the local housing authority must—
  - (a) serve a notice under this paragraph, together with a copy of the proposed licence, on the applicant for the licence and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 2 The notice under paragraph 1 must state that the authority are proposing to grant the licence and set out—
  - (a) the reasons for granting the licence,
  - (b) the main terms of the licence, and
  - (c) the end of the consultation period.

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- 3 (1) This paragraph applies if, having considered representations made in accordance with a notice under paragraph 1 or this paragraph, the local housing authority propose to grant a licence with modifications.
- (2) Before granting the licence the authority must—
- (a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 4 The notice under paragraph 3 must set out—
- (a) the proposed modifications,
  - (b) the reasons for them, and
  - (c) the end of the consultation period.

*Requirements before refusal to grant licence*

- 5 Before refusing to grant a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 6 The notice under paragraph 5 must state that the local housing authority are proposing to refuse to grant the licence and set out—
- (a) the reasons for refusing to grant the licence, and
  - (b) the end of the consultation period.

*Requirements following grant or refusal of licence*

- 7 (1) This paragraph applies where the local housing authority decide to grant a licence.
- (2) The local housing authority must serve on the applicant for the licence (and, if different, the licence holder) and each relevant person—
- (a) a copy of the licence, and
  - (b) a notice setting out—
    - (i) the reasons for deciding to grant the licence and the date on which the decision was made,
    - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
    - (iii) the period within which an appeal may be made (see paragraph 33(1)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.
- 8 (1) This paragraph applies where the local housing authority refuse to grant a licence.
- (2) The local housing authority must serve on the applicant for the licence and each relevant person a notice setting out—
- (a) the authority's decision not to grant the licence,
  - (b) the reasons for the decision and the date on which it was made,
  - (c) the right of appeal against the decision under Part 3 of this Schedule, and

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- (d) the period within which an appeal may be made (see paragraph 33(1)).
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

*Exceptions from requirements in relation to grant or refusal of licences*

- 9 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority—
  - (a) have already served a notice under paragraph 1 but not paragraph 3 in relation to the proposed licence, and
  - (b) consider that the modifications which are now being proposed are not material in any respect.
- 10 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority—
  - (a) have already served notices under paragraphs 1 and 3 in relation to the matter concerned, and
  - (b) consider that the further modifications which are now being proposed do not differ in any material respect from the modifications in relation to which a notice was last served under paragraph 3.
- 11 Paragraphs 5, 6 and 8 do not apply to a refusal to grant a licence on particular terms if the local housing authority are proposing to grant the licence on different terms.

*Meaning of “the end of the consultation period”*

- 12 (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question.
- (2) The end of the consultation period must be—
  - (a) in the case of a notice under paragraph 1 or 5, a day which is at least 14 days after the date of service of the notice; and
  - (b) in the case of a notice under paragraph 3, a day which is at least 7 days after the date of service of the notice.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

*Meaning of “licence” and “relevant person”*

- 13 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))—
  - (a) who, to the knowledge of the local housing authority concerned, is—
    - (i) a person having an estate or interest in the HMO or Part 3 house in question, or
    - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
  - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).
- (3) The persons excluded by this sub-paragraph are—

- (a) the applicant for the licence and (if different) the licence holder, and
- (b) any tenant under a lease with an unexpired term of 3 years or less.

## PART 2

### PROCEDURE RELATING TO VARIATION OR REVOCATION OF LICENCES

#### *Variation of licences*

- 14 Before varying a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 15 The notice under paragraph 14 must state that the local housing authority are proposing to make the variation and set out—
- (a) the effect of the variation,
  - (b) the reasons for the variation, and
  - (c) the end of the consultation period.
- 16 (1) This paragraph applies where the local housing authority decide to vary a licence.
- (2) The local housing authority must serve on the licence holder and each relevant person—
- (a) a copy of the authority’s decision to vary the licence, and
  - (b) a notice setting out—
    - (i) the reasons for the decision and the date on which it was made,
    - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
    - (iii) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

#### *Exceptions from requirements of paragraph 14*

- 17 The requirements of paragraph 14 do not apply if—
- (a) the local housing authority consider that the variation is not material, or
  - (b) the variation is agreed by the licence holder and the local housing authority consider that it would not be appropriate to comply with the requirements of that paragraph.
- 18 The requirements of paragraph 14 do not apply if the local housing authority—
- (a) have already served a notice under that paragraph in relation to a proposed variation, and
  - (b) consider that the variation which is now being proposed is not materially different from the previous proposed variation.

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### *Refusal to vary a licence*

- 19 Before refusing to vary a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 20 The notice under paragraph 19 must state that the authority are proposing to refuse to vary the licence and set out—
- (a) the reasons for refusing to vary the licence, and
  - (b) the end of the consultation period.
- 21 (1) This paragraph applies where the local housing authority refuse to vary a licence.
- (2) The authority must serve on the licence holder and each relevant person a notice setting out—
- (a) the authority’s decision not to vary the licence,
  - (b) the reasons for the decision and the date on which it was made,
  - (c) the right of appeal against the decision under Part 3 of this Schedule, and
  - (d) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

### *Revocation of licences*

- 22 Before revoking a licence, the local housing authority must—
- (a) serve a notice on the licence holder under this paragraph and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 23 The notice under paragraph 22 must state that the authority are proposing to revoke the licence and set out—
- (a) the reasons for the revocation, and
  - (b) the end of the consultation period.
- 24 (1) This paragraph applies where the local housing authority decide to revoke a licence.
- (2) The authority must serve on the licence holder and each relevant person—
- (a) a copy of the authority’s decision to revoke the licence, and
  - (b) a notice setting out—
    - (i) the reasons for the decision and the date on which it was made,
    - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
    - (iii) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

*Exception from requirements of paragraph 22*

- 25 The requirements of paragraph 22 do not apply if the revocation is agreed by the licence holder and the local housing authority consider that it would not be appropriate to comply with the requirements of that paragraph.

*Refusal to revoke a licence*

- 26 Before refusing to revoke a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 27 The notice under paragraph 26 must state that the authority are proposing to refuse to revoke the licence and set out—
- (a) the reasons for refusing to revoke the licence, and
  - (b) the end of the consultation period.
- 28 (1) This paragraph applies where the local housing authority refuse to revoke a licence.
- (2) The authority must serve on the licence holder and each relevant person a notice setting out—
- (a) the authority’s decision not to revoke the licence,
  - (b) the reasons for the decision and the date on which it was made,
  - (c) the right of appeal against the decision under Part 3 of this Schedule, and
  - (d) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

*Meaning of “the end of the consultation period”*

- 29 (1) In this Part of this Schedule “the end of the consultation period” means the last day on which representations may be made in respect of the matter in question.
- (2) That date must be at least 14 days after the date of service of the notice in question.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

*Meaning of “licence” and “relevant person”*

- 30 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))—
- (a) who, to the knowledge of the local housing authority concerned, is—
    - (i) a person having an estate or interest in the HMO or Part 3 house in question, or
    - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
  - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).

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- (3) The persons excluded by this sub-paragraph are—
- (a) the licence holder, and
  - (b) any tenant under a lease with an unexpired term of 3 years or less.

### PART 3

#### APPEALS AGAINST LICENCE DECISIONS

##### *Right to appeal against refusal or grant of licence*

- 31 (1) The applicant or any relevant person may appeal to a residential property tribunal against a decision by the local housing authority on an application for a licence—
- (a) to refuse to grant the licence, or
  - (b) to grant the licence.
- (2) An appeal under sub-paragraph (1)(b) may, in particular, relate to any of the terms of the licence.

##### *Right to appeal against decision or refusal to vary or revoke licence*

- 32 (1) The licence holder or any relevant person may appeal to a residential property tribunal against a decision by the local housing authority—
- (a) to vary or revoke a licence, or
  - (b) to refuse to vary or revoke a licence.
- (2) But this does not apply to the licence holder in a case where the decision to vary or revoke the licence was made with his agreement.

##### *Time limits for appeals*

- 33 (1) Any appeal under paragraph 31 against a decision to grant, or (as the case may be) to refuse to grant, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made.
- (2) Any appeal under paragraph 32 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 16, 21, 24 or 28 as the date on which the decision was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

##### *Powers of residential property tribunal hearing appeal*

- 34 (1) This paragraph applies to appeals to a residential property tribunal under paragraph 31 or 32.
- (2) An appeal—
- (a) is to be by way of a re-hearing, but



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- (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) On an appeal under paragraph 31 the tribunal may direct the authority to grant a licence to the applicant for the licence on such terms as the tribunal may direct.

*“The operative time” for the purposes of section 69(6), 70(8), 92(3) or 93(5)*

- 35 (1) This paragraph defines “the operative time” for the purposes of—
- (a) section 69(6) or 70(8) (variation or revocation of licence under Part 2 of this Act), or
  - (b) section 92(3) or 93(5) (variation or revocation of licence under Part 3 of this Act).
- (2) If the period of 28 days mentioned in paragraph 33(2) has expired without an appeal having been made under paragraph 32, “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 32 within that period and a decision is given on the appeal which confirms the variation or revocation, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision confirming the variation or revocation appealed against; and
  - (b) references to a decision which confirms a variation are to a decision which confirms it with or without variation.

*Meaning of “licence” and “relevant person”*

- 36 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))—
- (a) who is—
    - (i) a person having an estate or interest in the HMO or Part 3 house concerned, or
    - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
  - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).
- (3) The persons excluded by this sub-paragraph are—
- (a) the applicant for the licence and (if different) the licence holder, and
  - (b) any tenant under a lease with an unexpired term of 3 years or less.

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## SCHEDULE 6

Section 123

## MANAGEMENT ORDERS: PROCEDURE AND APPEALS

## PART 1

## PROCEDURE RELATING TO MAKING OF MANAGEMENT ORDERS

*Requirements before making final management order*

- 1 Before making a final management order, the local housing authority must—
  - (a) serve a copy of the proposed order, together with a notice under this paragraph, on each relevant person; and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 2 The notice under paragraph 1 must state that the authority are proposing to make a final management order and set out—
  - (a) the reasons for making the order;
  - (b) the main terms of the proposed order (including those of the management scheme to be contained in it); and
  - (c) the end of the consultation period.
- 3 (1) This paragraph applies if, having considered representations made in accordance with a notice under paragraph 1 or this paragraph, the local housing authority propose to make a final management order with modifications.  
(2) Before making the order, the authority must—
  - (a) serve a notice under this paragraph on each relevant person; and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 4 The notice under paragraph 3 must set out—
  - (a) the proposed modifications;
  - (b) the reasons for them; and
  - (c) the end of the consultation period.

*Exceptions from requirements relating to making of final management order*

- 5 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority—
  - (a) have already served notice under paragraph 1 but not paragraph 3 in relation to the proposed final management order; and
  - (b) consider that the modifications which are now being proposed are not material in any respect.
- 6 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority—
  - (a) have already served notices under paragraphs 1 and 3 in relation to the matter concerned; and

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- (b) consider that the further modifications which are now being proposed do not differ in any material respect from the modifications in relation to which a notice was last served under paragraph 3.

*Requirements following making of interim or final management order*

- 7
- (1) This paragraph applies where the local housing authority make an interim management order or a final management order.
  - (2) As soon as practicable after the order is made, the authority must serve on the occupiers of the house—
    - (a) a copy of the order, and
    - (b) a notice under this sub-paragraph.
  - (3) Those documents are to be regarded as having been served on the occupiers if they are fixed to a conspicuous part of the house.
  - (4) The notice under sub-paragraph (2) must set out—
    - (a) the reasons for making the order and the date on which it was made,
    - (b) the general effect of the order, and
    - (c) the date on which the order is to cease to have effect in accordance with section 105(4) and (5) or 114(3) and (4) (or, if applicable, how the date mentioned in section 105(6) is to be determined),and (if it is a final management order) give a general description of the way in which the house is to be managed by the authority in accordance with the management scheme contained in the order.
  - (5) The authority must also serve a copy of the order, together with a notice under this sub-paragraph, on each relevant person.
  - (6) The notice under sub-paragraph (5) must comply with sub-paragraph (4) and also contain information about—
    - (a) the right of appeal against the order under Part 3 of this Schedule, and
    - (b) the period within which any such appeal may be made (see paragraph 25(2)).
  - (7) The documents required to be served on each relevant person under sub-paragraph (5) must be served within the period of seven days beginning with the day on which the order is made.

*Meaning of “the end of the consultation period” and “relevant person”*

- 8
- (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question.
  - (2) The end of the consultation period must be—
    - (a) in the case of a notice under paragraph 1, a day which is at least 14 days after the date of service of the notice; and
    - (b) in the case of a notice under paragraph 3, a day which is at least 7 days after the date of service of the notice.
  - (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

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- (4) In this Part of this Schedule “relevant person” means any person who, to the knowledge of the local housing authority, is—
- (a) a person having an estate or interest in the house or part of it (but who 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.

## PART 2

### PROCEDURE RELATING TO VARIATION OR REVOCATION OF MANAGEMENT ORDERS

#### *Variation of management orders*

- 9 Before varying an interim or final management order, the local housing authority must—
- (a) serve a notice under this paragraph on each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 10 The notice under paragraph 9 must state that the authority are proposing to make the variation and specify—
- (a) the effect of the variation,
  - (b) the reasons for the variation, and
  - (c) the end of the consultation period.
- 11 (1) This paragraph applies where the local housing authority decide to vary an interim or final management order.
- (2) The local housing authority must serve on each relevant person—
- (a) a copy of the authority’s decision to vary the order, and
  - (b) a notice setting out—
    - (i) the reasons for the decision and the date on which it was made,
    - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
    - (iii) the period within which an appeal may be made (see paragraph 29(2)).
- (3) The documents required to be served on each relevant person under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

#### *Exceptions from requirements of paragraph 9*

- 12 The requirements of paragraph 9 do not apply if the local housing authority consider that the variation is not material.
- 13 The requirements of paragraph 9 do not apply if the local housing authority—
- (a) have already served a notice under that paragraph in relation to a proposed variation; and
  - (b) consider that the variation which is now being proposed is not materially different from the previous proposed variation.

*Refusal to vary interim or final management order*

- 14 Before refusing to vary an interim or final management order, the local housing authority must—
- (a) serve a notice under this paragraph on each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 15 The notice under paragraph 14 must state that the authority are proposing to refuse to make the variation and set out—
- (a) the reasons for refusing to make the variation, and
  - (b) the end of the consultation period.
- 16 (1) This paragraph applies where the local housing authority refuse to vary an interim or final management order.
- (2) The authority must serve on each relevant person a notice setting out—
- (a) the authority’s decision not to vary the order;
  - (b) the reasons for the decision and the date on which it was made;
  - (c) the right of appeal against the decision under Part 3 of this Schedule; and
  - (d) the period within which an appeal may be made (see paragraph 29(2)).
- (3) The notices required to be served on each relevant person under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

*Revocation of management orders*

- 17 Before revoking an interim or final management order, the local housing authority must—
- (a) serve a notice under this paragraph on each relevant person, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 18 The notice under paragraph 17 must state that the authority are proposing to revoke the order and specify—
- (a) the reasons for the revocation, and
  - (b) the end of the consultation period.
- 19 (1) This paragraph applies where the local housing authority decide to revoke an interim or final management order.
- (2) The authority must serve on each relevant person—
- (a) a copy of the authority’s decision to revoke the order; and
  - (b) a notice setting out—
    - (i) the reasons for the decision and the date on which it was made;
    - (ii) the right of appeal against the decision under Part 3 of this Schedule; and
    - (iii) the period within which an appeal may be made (see paragraph 29(2)).
- (3) The documents required to be served on each relevant person under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

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*Refusal to revoke management order*

- 20 Before refusing to revoke an interim or final management order, the local housing authority must—
- (a) serve a notice under this paragraph on each relevant person; and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 21 The notice under paragraph 20 must state that the authority are proposing to refuse to revoke the order and set out—
- (a) the reasons for refusing to revoke the order, and
  - (b) the end of the consultation period.
- 22 (1) This paragraph applies where the local housing authority refuse to revoke an interim or final management order.
- (2) The authority must serve on each relevant person a notice setting out—
- (a) the authority’s decision not to revoke the order;
  - (b) the reasons for the decision and the date on which it was made;
  - (c) the right of appeal against the decision under Part 3 of this Schedule; and
  - (d) the period within which an appeal may be made (see paragraph 29(2)).
- (3) The notices required to be served on each relevant person under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

*Meaning of “the end of the consultation period” and “relevant person”*

- 23 (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question.
- (2) The end of the consultation period must be a day which is at least 14 days after the date of service of the notice.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.
- (4) In this Part of this Schedule “relevant person” means any person who, to the knowledge of the local housing authority, is—
- (a) a person having an estate or interest in the house or part of it (but who 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.

### PART 3

#### APPEALS AGAINST DECISIONS RELATING TO MANAGEMENT ORDERS

*Right to appeal against making of order etc.*

- 24 (1) A relevant person may appeal to a residential property tribunal against—
- (a) a decision of the local housing authority to make an interim or final management order, or

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- (b) the terms of such an order (including, if it is a final management order, those of the management scheme contained in it).
- (2) Except to the extent that an appeal may be made in accordance with sub-paragraphs (3) and (4), sub-paragraph (1) does not apply to an interim management order made under section 102(4) or (7) or in accordance with a direction given under paragraph 26(5).
- (3) An appeal may be made under sub-paragraph (1)(b) on the grounds that the terms of an interim management order do not provide for one or both of the matters mentioned in section 110(5)(a) and (b) (which relate to payments of surplus rent etc.).
- (4) Where an appeal is made under sub-paragraph (1)(b) only on those grounds—
  - (a) the appeal may be brought at any time while the order is in force (with the result that nothing in sub-paragraph (5) or paragraph 25 applies in relation to the appeal); and
  - (b) the powers of the residential property tribunal under paragraph 26 are limited to determining whether the order should be varied by the tribunal so as to include a term providing for the matter or matters in question, and (if so) what provision should be made by the term.
- (5) If no appeal is brought against an interim or final management order under this paragraph within the time allowed by paragraph 25 for making such an appeal, the order is final and conclusive as to the matters which could have been raised on appeal.

#### *Time limits for appeals under paragraph 24*

- 25
- (1) This paragraph applies in relation to an appeal under paragraph 24 in respect of an interim or final management order.
  - (2) Any such appeal must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7(5) as the date on which the order was made.
  - (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

#### *Powers of residential property tribunal on appeal under paragraph 24*

- 26
- (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 24 in respect of an interim or final management order.
  - (2) The appeal—
    - (a) is to be by way of a re-hearing, but
    - (b) may be determined having regard to matters of which the authority were unaware.
  - (3) The tribunal may confirm or vary the order or revoke it —
    - (a) (in the case of an interim management order) as from a date specified in the tribunal's order, or
    - (b) (in the case of a final management order) as from the date of the tribunal's order.
  - (4) If —

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- (a) the tribunal revokes an interim or final management order,
  - (b) it appears to the tribunal that, on the revocation of the order, the house will be required to be licensed under Part 2 or 3 of this Act, and
  - (c) the tribunal does not give a direction under sub-paragraph (5) or (6),
- the tribunal must direct the local housing authority to grant such a licence to such person and on such terms as the tribunal may direct.
- (5) If the tribunal revokes a final management order, the tribunal may direct the local housing authority to make an interim management order in respect of the house or part of it on such terms as the tribunal may direct.
- This applies despite section 102(9).
- (6) If the tribunal revokes a final management order, the tribunal may direct the local housing authority to serve a temporary exemption notice under section 62 or 86 in respect of the house that comes into force on such date as the tribunal directs.
- (7) The revocation of an interim management order by the tribunal does not affect the validity of anything previously done in pursuance of the order.

*“The operative time” for the purposes of section 114(2)*

- 27 (1) This paragraph defines “the operative time” for the purposes of section 114(2).
- (2) If no appeal is made under paragraph 24 before the end of the period of 28 days mentioned in paragraph 25(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 24 before the end of that period, and a decision is given on the appeal which confirms the order, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the order, and
  - (b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

*Right to appeal against decision or refusal to vary or revoke interim management order*

- 28 A relevant person may appeal to a residential property tribunal against—
- (a) a decision of a local housing authority to vary or revoke an interim or final management order, or
  - (b) a refusal of a local housing authority to vary or revoke an interim or final management order.



*Time limits for appeals under paragraph 28*

- 29 (1) This paragraph applies in relation to an appeal under paragraph 28 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim or final management order.
- (2) Any such appeal must be made before the end of the period of 28 days beginning with the date specified in the notice under paragraph 11, 16, 19 or 22 as the date on which the decision concerned was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

*Powers of residential property tribunal on appeal under paragraph 28*

- 30 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 28 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim or final management order.
- (2) Paragraph 26(2) applies to such an appeal as it applies to an appeal under paragraph 24.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) If the appeal is against a decision of the authority to refuse to revoke the order, the tribunal may make an order revoking the order as from a date specified in its order.

*“The operative time” for the purposes of section 111(2), 112(2), 121(2) or 122(2)*

- 31 (1) This paragraph defines “the operative time” for the purposes of—
- (a) section 111(2) or 112(2) (variation or revocation of interim management order), or
  - (b) section 121(2) or 122(2) (variation or revocation of final management order).
- (2) If no appeal is made under paragraph 28 before the end of the period of 28 days mentioned in paragraph 29(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 28 within that period, and a decision is given on the appeal which confirms the variation or revocation, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation or revocation appealed against; and
  - (b) references to a decision which confirms a variation are to a decision which confirms it with or without variation.

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*Right to appeal against decision in respect of compensation payable to third parties*

- 32 (1) This paragraph applies where a local housing authority have made a decision under section 128 as to whether compensation should be paid to a third party in respect of any interference with his rights in consequence of an interim or final management order.
- (2) The third party may appeal to a residential property tribunal against—
- (a) a decision by the authority not to pay compensation to him, or
  - (b) a decision of the authority so far as relating to the amount of compensation that should be paid.

*Time limits for appeals under paragraph 32*

- 33 (1) This paragraph applies in relation to an appeal under paragraph 32 against a decision of a local housing authority not to pay compensation to a third party or as to the amount of compensation to be paid.
- (2) Any such appeal must be made within the period of 28 days beginning with the date the authority notifies the third party under section 128(2).
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

*Powers of residential property tribunal on appeal under paragraph 32*

- 34 (1) This paragraph applies in relation to an appeal under paragraph 32 against a decision of a local housing authority not to pay compensation to a third party or as to the amount of compensation to be paid.
- (2) The appeal—
- (a) is to be by way of re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) Where the tribunal reverses or varies a decision of the authority in respect of a final management order, it must make an order varying the management scheme contained in the final management order accordingly.

*Meaning of “relevant person”*

- 35 In this Part of this Schedule “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.

## SCHEDULE 7

Section 132

### FURTHER PROVISIONS REGARDING EMPTY DWELLING MANAGEMENT ORDERS

#### PART 1

#### INTERIM EDMOS

##### *Operation of interim EDMOs*

- 1 (1) This paragraph deals with the time when an interim EDMO comes into force or ceases to have effect.
- (2) The order comes into force when it is made.
- (3) The order ceases to have effect at the end of the period of 12 months beginning with the date on which it is made, unless it ceases to have effect at some other time as mentioned below.
- (4) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date.
- (5) Sub-paragraphs (6) and (7) apply where—
  - (a) a final EDMO (“the final EDMO”) has been made under section 136 so as to replace the order (“the interim EDMO”), but
  - (b) the final EDMO has not come into force because of an appeal to a residential property tribunal under paragraph 26 against the making of the final EDMO.
- (6) If the date on which the final EDMO comes into force in relation to the dwelling following the disposal of the appeal is later than the date on which the interim EDMO would cease to have effect apart from this sub-paragraph, the interim EDMO continues in force until that later date.
- (7) If, on the application of the authority, the tribunal makes an order providing for the interim EDMO to continue in force, pending the disposal of the appeal, until a date later than that on which the interim EDMO would cease to have effect apart from this sub-paragraph, the interim EDMO accordingly continues in force until that later date.
- (8) This paragraph has effect subject to paragraphs 6 and 7 (variation or revocation of orders by authority) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 30.

##### *General effect of interim EDMOs*

- 2 (1) This paragraph applies while an interim EDMO is in force in relation to a dwelling.
- (2) The rights and powers conferred by sub-paragraph (3) are exercisable by the authority in performing their duties under section 135(1) to (3) in respect of the dwelling.
- (3) The authority—
  - (a) have the right to possession of the dwelling (subject to the rights of existing occupiers preserved by paragraph 18(3));

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- (b) have the right to do (and authorise a manager or other person to do) in relation to the dwelling anything which the relevant proprietor of the dwelling would (but for the order) be entitled to do;
  - (c) may create one or more of the following—
    - (i) an interest in the dwelling which, as far as possible, has all the incidents of a leasehold, or
    - (ii) a right in the nature of a licence to occupy part of the dwelling;
  - (d) may apply to a residential property tribunal for an order under paragraph 22 determining a lease or licence of the dwelling.
- (4) But the authority may not under sub-paragraph (3)(c) create any interest or right in the nature of a lease or licence unless—
  - (a) consent in writing has been given by the relevant proprietor of the dwelling, and
  - (b) where the relevant proprietor is a lessee under a lease of the dwelling, the interest or right is created for a term that is less than the term of that lease.
- (5) The authority—
  - (a) do not under this paragraph acquire any estate or interest in the dwelling, and
  - (b) accordingly are not entitled by virtue of this paragraph to sell, lease, charge or make any other disposition of any such estate or interest.
- (6) But, where the relevant proprietor of the dwelling is a lessee under a lease of the dwelling, the authority are to be treated (subject to sub-paragraph (5)(a)) as if they were the lessee instead.
- (7) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
  - (a) a lease in relation to which the authority are to be treated as the lessee under sub-paragraph (6), or
  - (b) a lease to which the authority become a party under paragraph 4(2),as if the authority were the legal owner of the premises (but this is subject to paragraph 4(4) to (6)).
- (8) None of the following, namely—
  - (a) the authority, or
  - (b) any person authorised under sub-paragraph (3)(b),is liable to any person having an estate or interest in the dwelling for anything done or omitted to be done in the performance (or intended performance) of the authority's duties under section 135(1) to (3) unless the act or omission is due to negligence of the authority or any such person.
- (9) An interim EDMO which has come into force is a local land charge.
- (10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register of title in respect of such an order.
- (11) In this paragraph “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

*General effect of interim EDMOs: leases and licences granted by authority*

- 3 (1) This paragraph applies in relation to any interest or right created by the authority under paragraph 2(3)(c).
- (2) For the purposes of any enactment or rule of law—
- (a) any interest created by the authority under paragraph 2(3)(c)(i) is to be treated as if it were a legal lease, and
  - (b) any right created by the authority under paragraph 2(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the dwelling, despite the fact that the authority have no legal estate in the dwelling (see paragraph 2(5)(a)).
- (3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under paragraph 2(3)(c)(i) as if the authority were the legal owner of the dwelling.
- (4) References to leases and licences—
- (a) in this Chapter, and
  - (b) in any other enactment,
- accordingly include (where the context permits) interests and rights created by the authority under paragraph 2(3)(c).
- (5) The preceding provisions of this paragraph have effect subject to—
- (a) paragraph 4(4) to (6), and
  - (b) any provision to the contrary contained in an order made by the appropriate national authority.
- (6) In paragraph 2(5)(b) the reference to leasing does not include the creation of interests under paragraph 2(3)(c)(i).
- (7) In this paragraph—
- “enactment” has the meaning given by paragraph 2(11);
  - “legal lease” means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

*General effect of interim EDMOs: relevant proprietor, mortgagees etc.*

- 4 (1) This paragraph applies in relation to—
- (a) the relevant proprietor, and
  - (b) other persons with an estate or interest in the dwelling,
- while an interim EDMO is in force in relation to a dwelling.
- (2) Where the relevant proprietor is a lessor or licensor under a lease or licence of the dwelling, the lease or licence has effect while the order is in force as if the local housing authority were substituted in it for the lessor or licensor.
- (3) Such a lease continues to have effect, as far as possible, as a lease despite the fact that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the dwelling.
- (4) The provisions mentioned in sub-paragraph (5) do not apply to a lease or licence within sub-paragraph (2).

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- (5) The provisions are—
- (a) the provisions which exclude local authority lettings from the Rent Acts, namely—
    - (i) sections 14 to 16 of the Rent Act 1977 (c. 42), and
    - (ii) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act; and
  - (b) section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act).
- (6) Nothing in this Chapter has the result that the authority are to be treated as the legal owner of any premises for the purposes of—
- (a) section 80 of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies); or
  - (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).
- (7) The relevant proprietor of the dwelling—
- (a) is not entitled to receive any rents or other payments made in respect of occupation of the dwelling;
  - (b) may not exercise any rights or powers with respect to the management of the dwelling; and
  - (c) may not create any of the following—
    - (i) any leasehold interest in the dwelling or a part of it (other than a lease of a reversion), or
    - (ii) any licence or other right to occupy it.
- (8) However (subject to sub-paragraph (7)(c)) nothing in paragraph 2 or this paragraph affects the ability of a person having an estate or interest in the dwelling to make any disposition of that estate or interest.
- (9) Nothing in paragraph 2 or this paragraph affects—
- (a) the validity of any mortgage relating to the dwelling or any rights or remedies available to the mortgagee under such a mortgage, or
  - (b) the validity of any lease of the dwelling under which the relevant proprietor is a lessee, or any superior lease, or (subject to paragraph 2(6)) any rights or remedies available to the lessor under such a lease,
- except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under paragraph 2(3)(c).
- (10) In proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the interim EDMO (including an order quashing it).

*Financial arrangements while order is in force*

- 5 (1) This paragraph applies to relevant expenditure of a local housing authority who have made an interim EDMO.
- (2) “Relevant expenditure” means—
- (a) expenditure incurred by the authority with the consent of the relevant proprietor, or
  - (b) any other expenditure reasonably incurred by the authority,

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in connection with performing their duties under section 135(1) to (3) in respect of the dwelling (including any premiums paid for insurance of the premises).

- (3) Rent or other payments which the authority have collected or recovered, by virtue of this Chapter, from persons occupying or having the right to occupy the dwelling may be used by the authority to meet—
- (a) relevant expenditure, and
  - (b) any amounts of compensation payable to a third party by virtue of an order under section 134(4) or 138(2) or to a dispossessed landlord or tenant by virtue of an order under paragraph 22(5).
- (4) The authority must pay to the relevant proprietor—
- (a) any amount of rent or other payments collected or recovered as mentioned in sub-paragraph (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that sub-paragraph, and
  - (b) (where appropriate) interest on that amount at a reasonable rate fixed by the authority,
- and such payments are to be made at such intervals as the authority consider appropriate.
- (5) The interim EDMO may provide for—
- (a) the rate of interest which is to apply for the purposes of paragraph (b) of sub-paragraph (4); and
  - (b) the intervals at which payments are to be made under that sub-paragraph.

Paragraph 26(1)(c) enables an appeal to be brought where the order does not provide for both of those matters.

- (6) The authority must—
- (a) keep full accounts of their income and expenditure in respect of the dwelling; and
  - (b) afford to the relevant proprietor, and to any other person who has an estate or interest in the dwelling, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (7) The relevant proprietor may apply to a residential property tribunal for an order—
- (a) declaring that an amount shown in the accounts as expenditure of the authority does not constitute relevant expenditure (see sub-paragraph (2));
  - (b) requiring the authority to make such financial adjustments (in the accounts and otherwise) as are necessary to reflect the tribunal's declaration.
- (8) In this paragraph—
- “dispossessed landlord or tenant” means a person who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order under paragraph 22;
  - “expenditure” includes administrative costs.

#### *Variation or revocation of interim EDMOs*

- 6 (1) The local housing authority may vary an interim EDMO if they consider it appropriate to do so.

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- (2) A variation does not come into force until such time, if any, as is the operative time for the purposes of this sub-paragraph under paragraph 33 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
  - (3) The power to vary an order under this paragraph is exercisable by the authority either—
    - (a) on an application made by a relevant person, or
    - (b) on the authority’s own initiative.
  - (4) In this paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c)).
- 7
- (1) The local housing authority may revoke an interim EDMO in the following cases—
    - (a) where the authority conclude that there are no steps which they could appropriately take for the purpose of securing that the dwelling is occupied (see section 135(4));
    - (b) where the authority are satisfied that—
      - (i) the dwelling will either become or continue to be occupied, despite the order being revoked, or
      - (ii) that the dwelling is to be sold;
    - (c) where a final EDMO has been made by the authority in respect of the dwelling so as to replace the order;
    - (d) where the authority conclude that it would be appropriate to revoke the order in order to prevent or stop interference with the rights of a third party in consequence of the order; and
    - (e) where in any other circumstances the authority consider it appropriate to revoke the order.
  - (2) But, in a case where the dwelling is occupied, the local housing authority may not revoke an interim EDMO under sub-paragraph (1)(b), (d) or (e) unless the relevant proprietor consents.
  - (3) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this sub-paragraph under paragraph 33 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal).
  - (4) The power to revoke an order under this paragraph is exercisable by the authority either—
    - (a) on an application made by a relevant person, or
    - (b) on the authority’s own initiative.
  - (5) Where a relevant person applies to the authority for the revocation of an order under this paragraph, the authority may refuse to revoke the order unless the relevant proprietor (or some other person) agrees to pay to the authority any deficit such as is mentioned in paragraph 23(4).
  - (6) In this paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c)).



- 8 (1) Part 2 of Schedule 6 applies in relation to the variation or revocation of an interim EDMO as it applies in relation to the variation or revocation of an interim management order.
- (2) But Part 2 of that Schedule so applies as if—
- (a) references to the right of appeal under Part 3 of the Schedule and to paragraph 29(2) were to the right of appeal under Part 4 of this Schedule and to paragraph 31(2) of this Schedule, and
  - (b) paragraph 23(4) defined “relevant person” as any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) of this Schedule).

## PART 2

### FINAL EDMOS

#### *Operation of final EDMOs*

- 9 (1) This paragraph deals with the time when a final EDMO comes into force or ceases to have effect.
- (2) The order does not come into force until such time (if any) as is the operative time for the purposes of this sub-paragraph under paragraph 29 (time when period for appealing expires without an appeal being made or when order is confirmed on appeal).
- (3) The order ceases to have effect at the end of the period of 7 years beginning with the date on which it comes into force, unless it ceases to have effect at some other time as mentioned below.
- (4) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date.
- (5) If—
- (a) the order provides that it is to cease to have effect on a date falling after the end of that period, and
  - (b) the relevant proprietor of the dwelling has consented to that provision,
- the order accordingly ceases to have effect on that date.
- (6) Sub-paragraphs (7) and (8) apply where—
- (a) a new final EDMO (“the new order”) has been made so as to replace the order (“the existing order”), but
  - (b) the new order has not come into force because of an appeal to a residential property tribunal under paragraph 26 against the making of that order.
- (7) If the date on which the new order comes into force in relation to the dwelling following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this sub-paragraph, the existing order continues in force until that later date.
- (8) If, on the application of the authority, the tribunal makes an order providing for the existing order to continue in force, pending the disposal of the appeal, until a date

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later than that on which it would cease to have effect apart from this sub-paragraph, the existing order accordingly continues in force until that later date.

- (9) This paragraph has effect subject to paragraphs 15 and 16 (variation or revocation of orders) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 26 or 30.

*General effect of final EDMOs*

- 10 (1) This paragraph applies while a final EDMO is in force in relation to a dwelling.
- (2) The rights and powers conferred by sub-paragraph (3) are exercisable by the authority in performing their duties under section 137(1) to (3) in respect of the dwelling.
- (3) The authority—
- (a) have the right to possession of the dwelling (subject to the rights of existing and other occupiers preserved by paragraph 18(3) and (4));
  - (b) have the right to do (and authorise a manager or other person to do) in relation to the dwelling anything which the relevant proprietor of the dwelling would (but for the order) be entitled to do;
  - (c) may create one or more of the following—
    - (i) an interest in the dwelling which, as far as possible, has all the incidents of a leasehold, or
    - (ii) a right in the nature of a licence to occupy part of the dwelling;
  - (d) may apply to a residential property tribunal for an order under paragraph 22 determining a lease or licence of the dwelling.
- (4) The powers of the authority under sub-paragraph (3)(c) are restricted as follows—
- (a) they may not create any interest or right in the nature of a lease or licence—
    - (i) which is for a fixed term expiring after the date on which the order is due to expire, or
    - (ii) (subject to paragraph (b)) which is terminable by notice to quit, or an equivalent notice, of more than 4 weeks,
 unless consent in writing has been given by the relevant proprietor;
  - (b) they may create an interest in the nature of an assured shorthold tenancy without any such consent so long as it is created before the beginning of the period of 6 months that ends with the date on which the order is due to expire.
- (5) The authority—
- (a) do not under this paragraph acquire any estate or interest in the dwelling, and
  - (b) accordingly are not entitled by virtue of this paragraph to sell, lease, charge or make any other disposition of any such estate or interest.
- (6) But, where the relevant proprietor of the dwelling is a lessee under a lease of the dwelling, the authority are to be treated (subject to sub-paragraph (5)(a)) as if they were the lessee instead.
- (7) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
- (a) a lease in relation to which the authority are to be treated as the lessee under sub-paragraph (6), or
  - (b) a lease to which the authority become a party under paragraph 12(2),

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as if the authority were the legal owner of the premises (but this is subject to paragraph 12(4) to (6)).

- (8) None of the following, namely—
- (a) the authority, or
  - (b) any person authorised under sub-paragraph (3)(b),
- is liable to any person having an estate or interest in the dwelling for anything done or omitted to be done in the performance (or intended performance) of the authority's duties under section 137(1) to (3) unless the act or omission is due to negligence of the authority or any such person.
- (9) A final EDMO which has come into force is a local land charge.
- (10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register in respect of such an order.
- (11) In this paragraph “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

*General effect of final EDMOs: leases and licences granted by authority*

- 11 (1) This paragraph applies in relation to any interest or right created by the authority under paragraph 10(3)(c).
- (2) For the purposes of any enactment or rule of law—
- (a) any interest created by the authority under paragraph 10(3)(c)(i) is to be treated as if it were a legal lease, and
  - (b) any right created by the authority under paragraph 10(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the dwelling, despite the fact that the authority have no legal estate in the dwelling (see paragraph 10(5)(a)).
- (3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under paragraph 10(3)(c) (i) as if the authority were the legal owner of the dwelling.
- (4) References to leases and licences—
- (a) in this Chapter, and
  - (b) in any other enactment,
- accordingly include (where the context permits) interests and rights created by the authority under paragraph 10(3)(c).
- (5) The preceding provisions of this paragraph have effect subject to—
- (a) paragraph 12(4) to (6), and
  - (b) any provision to the contrary contained in an order made by the appropriate national authority.
- (6) In paragraph 10(5)(b) the reference to leasing does not include the creation of interests under paragraph 10(3)(c)(i).
- (7) In this paragraph—
- “enactment” has the meaning given by paragraph 10(11);

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

*General effect of final EDMOs: relevant proprietor, mortgagees etc.*

- 12 (1) This paragraph applies in relation to—
- (a) the relevant proprietor, and
  - (b) other persons with an estate or interest in the dwelling,
- while a final EDMO is in force in relation to a dwelling.
- (2) Where the relevant proprietor is a lessor or licensor under a lease or licence of the dwelling, the lease or licence has effect while the order is in force as if the local housing authority were substituted in it for the lessor or licensor.
- (3) Such a lease continues to have effect, as far as possible, as a lease despite the fact that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the dwelling.
- (4) The provisions mentioned in sub-paragraph (5) do not apply to a lease or licence within sub-paragraph (2).
- (5) The provisions are—
- (a) the provisions which exclude local authority lettings from the Rent Acts, namely—
    - (i) sections 14 to 16 of the Rent Act 1977 (c. 42), and
    - (ii) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act; and
  - (b) section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act).
- (6) Nothing in this Chapter has the result that the authority are to be treated as the legal owner of any premises for the purposes of—
- (a) section 80 of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies); or
  - (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).
- (7) The relevant proprietor of the dwelling—
- (a) is not entitled to receive any rents or other payments made in respect of occupation of the dwelling;
  - (b) may not exercise any rights or powers with respect to the management of the dwelling; and
  - (c) may not create any of the following—
    - (i) any leasehold interest in the dwelling or a part of it (other than a lease of a reversion), or
    - (ii) any licence or other right to occupy it.
- (8) However (subject to sub-paragraph (7)(c)) nothing in paragraph 10 or this paragraph affects the ability of a person having an estate or interest in the dwelling to make any disposition of that estate or interest.
- (9) Nothing in paragraph 10 or this paragraph affects—
- (a) the validity of any mortgage relating to the dwelling or any rights or remedies available to the mortgagee under such a mortgage, or

- (b) the validity of any lease of the dwelling under which the relevant proprietor is a lessee, or any superior lease, or (subject to paragraph 10(6)) any rights or remedies available to the lessor under such a lease;
- except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under paragraph 10(3)(c).
- (10) In proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the final EDMO (including an order quashing it).

*Management scheme and accounts*

- 13 (1) A final EDMO must contain a management scheme.
- (2) A “management scheme” is a scheme setting out how the local housing authority are to carry out their duties under section 137(1) to (3) as respects the dwelling.
- (3) The scheme is to contain a plan giving details of the way in which the authority propose to manage the dwelling, which must (in particular) include—
- (a) details of any works that the authority intend to carry out in connection with the dwelling;
  - (b) an estimate of the capital and other expenditure to be incurred by the authority in respect of the dwelling while the order is in force;
  - (c) the amount of rent which, in the opinion of the authority, the dwelling might reasonably be expected to fetch on the open market at the time the management scheme is made;
  - (d) the amount of rent or other payments that the authority will seek to obtain;
  - (e) the amount of any compensation that is payable to a third party by virtue of a decision of the authority under section 136(4) or 138(3) in respect of any interference in consequence of the final EDMO with the rights of that person;
  - (f) provision as to the payment of any such compensation and of any compensation payable to a dispossessed landlord or tenant by virtue of an order under paragraph 22(5);
  - (g) where the amount of rent payable to the authority in respect of the dwelling for a period is less than the amount of rent mentioned in paragraph (c) in respect of a period of the same length, provision as to the following—
    - (i) the deduction from the difference of relevant expenditure and any amounts of compensation payable to a third party or dispossessed landlord or tenant;
    - (ii) the payment of any remaining amount to the relevant proprietor;
    - (iii) the deduction from time to time of any remaining amount from any amount that the authority are entitled to recover from the proprietor under paragraph 23(5) or (6);
  - (h) provision as to the payment by the authority to the relevant proprietor from time to time of amounts of rent or other payments that remain after the deduction of—
    - (i) relevant expenditure, and
    - (ii) any amount of compensation payable to a third party or dispossessed landlord or tenant;
  - (i) provision as to the manner in which the authority are to pay to the relevant proprietor, on the termination of the final EDMO, the balance of any

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amounts of rent or other payments that remain after the deduction of relevant expenditure and any amounts of compensation payable to a third party or dispossessed landlord or tenant;

- (j) provision as to the manner in which the authority are to pay, on the termination of the final EDMO, any outstanding amount of compensation payable to a third party or dispossessed landlord or tenant.

(4) The scheme may also state—

- (a) the authority’s intentions as regards the use of rent or other payments to meet relevant expenditure;
- (b) the authority’s intentions as regards the payment to the relevant proprietor (where appropriate) of interest on amounts within sub-paragraph (3)(h) and (i);
- (c) that paragraph 23(2) or, where the relevant proprietor consents, paragraph 23(3)(c) is not to apply in relation to an interim EDMO or (as the case may be) final EDMO that immediately preceded the final EDMO, and that instead the authority intend to use any balance such as is mentioned in that sub-paragraph to meet—
  - (i) relevant expenditure incurred during the currency of that final EDMO, and
  - (ii) any compensation that may become payable to a third party or a dispossessed landlord or tenant;
- (d) that paragraph 23(4) to (6) are not to apply in relation to an interim EDMO or, where the relevant proprietor consents, a final EDMO that immediately preceded the final EDMO, and that instead the authority intend to use rent or other payments collected during the currency of that final EDMO to reimburse the authority in respect of any deficit such as is mentioned in paragraph 23(4);
- (e) the authority’s intentions as regards the recovery from the relevant proprietor, with or without interest, of any amount of relevant expenditure incurred under a previous interim EDMO or final EDMO that the authority are entitled to recover from the proprietor under paragraph 23(5) or (6).

(5) The authority must—

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

(6) In this paragraph—

“dispossessed landlord or tenant” means a person who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order under paragraph 22;

“relevant expenditure” means—

- (a) expenditure incurred by the authority with the consent of the relevant proprietor, or
- (b) any other expenditure reasonably incurred by the authority, in connection with performing their duties under section 135(1) to (3) or 137(1) to (3) in respect of the dwelling (including any reasonable

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administrative costs and any premiums paid for insurance of the premises);

“rent or other payments” means rent or other payments collected or recovered, by virtue of this Chapter, from persons occupying or having the right to occupy the dwelling.

- (7) In any provision of this Chapter relating to varying, revoking or appealing against decisions relating to a final EDMO, any reference to such an order includes (where the context permits) a reference to the management scheme contained in it.

*Application to residential property tribunal in respect of breach of management scheme*

- 14 (1) An affected person may apply to a residential property tribunal for an order requiring the local housing authority to manage a dwelling in accordance with the management scheme contained in a final EDMO made in respect of the dwelling.
- (2) On such an application the tribunal may, if it considers it appropriate to do so, make an order—
- (a) requiring the authority to manage the dwelling in accordance with the management scheme, or
  - (b) revoking the final EDMO as from a date specified in the tribunal’s order.
- (3) An order under sub-paragraph (2) may—
- (a) set out the steps which the authority are to take to manage the dwelling in accordance with the management scheme,
  - (b) include provision varying the final EDMO, and
  - (c) require the payment of money to an affected person by way of damages.
- (4) In this paragraph “affected person” means—
- (a) the relevant proprietor, and
  - (b) any third party to whom compensation is payable by virtue of an order under section 134(4) or 138(2) or a decision of the authority under section 136(4) or 138(3) or who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order of the residential property tribunal under paragraph 22 and to whom compensation is payable by virtue of an order under sub-paragraph (5) of that paragraph.

*Variation or revocation of final EDMOs*

- 15 (1) The local housing authority may vary a final EDMO if they consider it appropriate to do so.
- (2) A variation does not come into force until such time, if any, as is the operative time for the purposes of this sub-paragraph under paragraph 33 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).
- (3) The power to vary an order under this paragraph is exercisable by the authority either—
- (a) on an application made by a relevant person, or
  - (b) on the authority’s own initiative.

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- (4) In this paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c)).
- 16 (1) The local housing authority may revoke a final EDMO in the following cases—
- (a) where the authority conclude that there are no steps which they could appropriately take as mentioned in section 137(4)(b) or that keeping the order in force is not necessary as mentioned in section 137(4)(c);
  - (b) where the authority are satisfied that—
    - (i) the dwelling will either become or continue to be occupied, despite the order being revoked, or
    - (ii) that the dwelling is to be sold;
  - (c) where a further final EDMO has been made by the authority in respect of the dwelling so as to replace the order;
  - (d) where the authority conclude that it would be appropriate to revoke the order in order to prevent or stop interference with the rights of a third party in consequence of the order; and
  - (e) where in any other circumstances the authority consider it appropriate to revoke the order.
- (2) But, in a case where the dwelling is occupied, the local housing authority may not revoke a final EDMO under sub-paragraph (1)(b), (d) or (e) unless the relevant proprietor consents.
- (3) A revocation does not come into force until such time, if any, as is the operative time for the purposes of this sub-paragraph under paragraph 33 (time when period for appealing expires without an appeal being made or when decision to revoke is confirmed on appeal).
- (4) The power to revoke an order under this paragraph is exercisable by the authority either—
- (a) on an application made by a relevant person, or
  - (b) on the authority’s own initiative.
- (5) Where a relevant person applies to the authority for the revocation of an order under this paragraph, the authority may refuse to revoke the order unless the relevant proprietor (or some other person) agrees to pay to the authority any deficit such as is mentioned in paragraph 23(4).
- (6) In this paragraph “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c)).
- 17 (1) Part 2 of Schedule 6 applies in relation to the variation or revocation of a final EDMO as it applies in relation to the variation or revocation of a final management order.
- (2) But Part 2 of that Schedule so applies as if—
- (a) references to the right of appeal under Part 3 of the Schedule and to paragraph 29(2) were to the right of appeal under Part 4 of this Schedule and to paragraph 31(2) of this Schedule, and
  - (b) paragraph 23(4) defined “relevant person” as any person who, to the knowledge of the local housing authority, is a person having an estate or



interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of this Schedule).

### PART 3

#### INTERIM AND FINAL EDMOs: GENERAL PROVISIONS (OTHER THAN PROVISIONS RELATING TO APPEALS)

##### *Effect of EDMOs: persons occupying or having a right to occupy the dwelling*

- 18 (1) This paragraph applies to existing and new occupiers of a dwelling in relation to which an interim EDMO or final EDMO is in force.
- (2) In this paragraph—
- “existing occupier” means a person other than the relevant proprietor who, at the time when the order comes into force—
- (a) has the right to occupy the dwelling, but
- (b) is not a new occupier within sub-paragraph (4);
- “new occupier” means a person who, at a time when the order is in force, is occupying the dwelling under a lease or licence granted under paragraph 2(3)(c) or 10(3)(c).
- (3) Paragraphs 2 and 10 do not affect the rights or liabilities of an existing occupier under a lease or licence (whether in writing or not) under which he has the right to occupy the dwelling at the commencement date.
- (4) Paragraph 10 does not affect the rights and liabilities of a new occupier who, in the case of a final EDMO, is occupying the dwelling at the time when the order comes into force.
- (5) The provisions mentioned in sub-paragraph (6) do not apply to a lease or agreement under which a new occupier has the right to occupy or is occupying the dwelling.
- (6) The provisions are—
- (a) the provisions which exclude local authority lettings from the Rent Acts, namely—
- (i) sections 14 to 16 of the Rent Act 1977 (c. 42), and
- (ii) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act; and
- (b) section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act).
- (7) If, immediately before the coming into force of an interim EDMO or final EDMO, an existing occupier had the right to occupy the dwelling under—
- (a) a protected or statutory tenancy within the meaning of the Rent Act 1977,
- (b) a protected or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976, or
- (c) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988,
- nothing in this Chapter (except an order under paragraph 22 determining a lease or licence) prevents the continuance of that tenancy or occupancy or affects the

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continued operation of any of those Acts in relation to the tenancy or occupancy after the coming into force of the order.

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

*Effect of EDMOs: agreements and legal proceedings*

- 19 (1) An agreement or instrument within sub-paragraph (2) has effect, while an interim EDMO or final EDMO is in force, as if any rights or liabilities of the relevant proprietor under the agreement or instrument were instead rights or liabilities of the local housing authority.
- (2) An agreement or instrument is within this sub-paragraph if—
- (a) it is effective on the commencement date,
  - (b) one of the parties to it is the relevant proprietor of the dwelling,
  - (c) it relates to the dwelling, whether in connection with any management activities with respect to it, or otherwise,
  - (d) it is specified for the purposes of this sub-paragraph in the order or falls within a description of agreements or instruments so specified, and
  - (e) the authority serve a notice in writing on all the parties to it stating that sub-paragraph (1) is to apply to it.
- (3) An agreement or instrument is not within sub-paragraph (2) if—
- (a) it is a lease or licence within paragraph 2(6) or 10(6), or
  - (b) it relates to any disposition by the relevant proprietor which is not precluded by paragraph 4(7) or 12(7).
- (4) Proceedings in respect of any cause of action within sub-paragraph (5) may, while an interim EDMO or final EDMO is in force, be instituted or continued by or against the local housing authority instead of by or against the relevant proprietor.
- (5) A cause of action is within this sub-paragraph if—
- (a) it is a cause of action (of any nature) which accrued to or against the relevant proprietor of the dwelling before the commencement date,
  - (b) it relates to the dwelling as mentioned in sub-paragraph (2)(c),
  - (c) it is specified for the purposes of this sub-paragraph in the order or falls within a description of causes of action so specified, and
  - (d) the authority serve a notice in writing on all interested parties stating that sub-paragraph (4) is to apply to it.
- (6) If, by virtue of this paragraph, the authority become subject to any liability to pay damages in respect of anything done (or omitted to be done) before the commencement date by or on behalf of the relevant proprietor of the dwelling, the relevant proprietor is liable to reimburse to the authority an amount equal to the amount of damages paid by them.
- (7) In this paragraph—
- “agreement” includes arrangement;
- “the commencement date” means the date on which the order comes into force (or, if that order was preceded by one or more orders under this Chapter, the date when the first order came into force);

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

*Effect of EDMOs: furniture*

- 20 (1) Sub-paragraph (2) applies where, on the date on which an interim EDMO or final EDMO comes into force, there is furniture owned by the relevant proprietor in the dwelling.
- (2) Subject to sub-paragraphs (3) and (4), the right to possession of the furniture against all persons vests in the local housing authority on that date and remains vested in the authority while the order is in force.
- (3) The right of the local housing authority under sub-paragraph (2) to possession of the furniture is subject to the rights of any person who, on the date on which the interim EDMO or final EDMO comes into force, has the right to possession of the dwelling.
- (4) Where—
- (a) the local housing authority have the right to possession of the furniture under sub-paragraph (2), and
  - (b) they have not granted a right to possession of the furniture to any other person,
- they must, on a request by the relevant proprietor, give up possession of the furniture to him.
- (5) The local housing authority may renounce the right to possession of the furniture conferred by sub-paragraph (2) by serving notice on the relevant proprietor not less than two weeks before the renunciation is to have effect.
- (6) Where the local housing authority renounce the right to possession of the furniture under sub-paragraph (5), they must make appropriate arrangements for storage of the furniture at their own cost.
- (7) In this paragraph “furniture” includes fittings and other articles.

*EDMOs: power to supply furniture*

- 21 (1) The local housing authority may supply the dwelling to which an interim EDMO or final EDMO relates with such furniture as they consider to be required.
- (2) For the purposes of paragraph 5 or paragraph 13, any expenditure incurred by the authority under this paragraph constitutes expenditure incurred by the authority in connection with performing their duties under section 135(1) to (3) or 137(1) to (3).
- (3) In this paragraph “furniture” includes fittings and other articles.

*Power of a residential property tribunal to determine certain leases and licences*

- 22 (1) A residential property tribunal may make an order determining a lease or licence to which this paragraph applies if—
- (a) the case falls within sub-paragraph (3) or (4), and
  - (b) the tribunal are satisfied that the dwelling is not being occupied and that the local housing authority need to have the right to possession of the dwelling in order to secure that the dwelling becomes occupied.

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- (2) This paragraph applies to the following leases and licences of a dwelling—
- (a) a lease of the dwelling in respect of which the relevant proprietor is the lessor,
  - (b) a sub-lease of any such lease, and
  - (c) a licence of the dwelling.
- (3) A case falls within this sub-paragraph if—
- (a) an interim or final EDMO is in force in respect of the dwelling, and
  - (b) the local housing authority have applied under paragraph 2(3)(d) or 10(3)(d) for an order determining the lease or licence.
- (4) A case falls within this sub-paragraph if—
- (a) the local housing authority have applied to the residential property tribunal under section 133 for an order authorising them to make an interim EDMO in respect of the dwelling and an order determining the lease or licence, and
  - (b) the residential property tribunal has decided to authorise the authority to make an interim EDMO in respect of the dwelling.
- (5) An order under this paragraph may include provision requiring the local housing authority to pay such amount or amounts to one or more of the lessor, lessee, licensor or licensee by way of compensation in respect of the determination of the lease or licence as the tribunal determines.
- (6) Where—
- (a) a final EDMO is in force in respect of a dwelling, and
  - (b) the tribunal makes an order requiring the local housing authority to pay an amount of compensation to a lessor, lessee, licensor or licensee in respect of the determination of a lease or licence of the dwelling,
- the tribunal must make an order varying the management scheme contained in the final EDMO so as to make provision as to the payment of that compensation.

*Termination of EDMOs: financial arrangements*

- 23 (1) This paragraph applies where an interim EDMO or final EDMO ceases to have effect for any reason.
- (2) If, on the termination date for an interim EDMO, the total amount of rent or other payments collected or recovered as mentioned in paragraph 5(3) exceeds the total amount of—
- (a) the authority's relevant expenditure, and
  - (b) any amounts of compensation payable to third parties by virtue of orders under section 134(4) or 138(2) or decisions of the authority under section 136(4) or 138(3),
- the authority must, as soon as possible after the termination date, pay the balance to the relevant proprietor.
- (3) If, on the termination date for a final EDMO, any balance is payable to—
- (a) a third party,
  - (b) a dispossessed landlord or tenant, or
  - (c) the relevant proprietor,

in accordance with the management scheme under paragraph 13, that amount must be paid to that person by the local housing authority in the manner provided by the scheme.

- (4) Sub-paragraphs (5) and (6) apply where, on the termination date for an interim EDMO or final EDMO, the total amount of rent or other payments collected or recovered as mentioned in paragraph 5(3) is less than the total amount of the authority's relevant expenditure together with any such amounts of compensation as are mentioned in sub-paragraph (2)(b) above.
- (5) The authority may recover from the relevant proprietor—
  - (a) the amount of any relevant expenditure (not exceeding the deficit mentioned in sub-paragraph (4)) which he has agreed in writing to pay either as a condition of revocation of the order or otherwise, and
  - (b) where the relevant proprietor is a tenant under a lease in respect of the dwelling, the amount of any outstanding service charges payable under the lease.
- (6) In the case of an interim EDMO ceasing to have effect, the authority may recover the deficit mentioned in sub-paragraph (4) from the relevant proprietor if, in their opinion, he unreasonably refused to consent to the creation of an interest or right as mentioned in paragraph 2(3)(c) while the order was in force.
- (7) The provisions of any of sub-paragraphs (2) to (6) do not, however, apply in relation to the order if—
  - (a) the order is followed by a final EDMO, and
  - (b) the management scheme contained in that final EDMO provides for those sub-paragraphs not to apply in relation to the order (see paragraph 13(4)(c) and (d)).
- (8) Any sum recoverable by the authority under sub-paragraph (5) or (6) is, until recovered, a charge on the dwelling.
- (9) The charge takes effect on the termination date for the order as a legal charge which is a local land charge.
- (10) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (11) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.
- (12) In this paragraph—

“dispossessed landlord or tenant” means a person who was a lessor, lessee, licensor or licensee under a lease or licence determined by an order under paragraph 22;

“relevant expenditure” has the same meaning as in paragraph 5 (in relation to an interim EDMO) or paragraph 13 (in relation to a final EDMO);

“service charge” has the meaning given by section 18 of the Landlord and Tenant Act 1985 (c. 70);

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

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*Termination of EDMOs: leases, agreements and proceedings*

- 24 (1) This paragraph applies where—
- (a) an interim EDMO or final EDMO ceases to have effect for any reason, and
  - (b) the order is not immediately followed by a further order under this Chapter.
- (2) As from the termination date, an agreement which (in accordance with paragraph 3 or 11) has effect as a lease or licence granted by the authority under paragraph 2 or 10 has effect with the substitution of the relevant proprietor for the authority.
- (3) If the relevant proprietor is a lessee, nothing in a superior lease imposes liability on him or any superior lessee in respect of anything done before the termination date in pursuance of the terms of an agreement to which sub-paragraph (2) applies.
- (4) If the condition in sub-paragraph (5) is met, any other agreement entered into by the authority in the performance of their duties under section 135(1) to (3) or 137(1) to (3) in respect of the dwelling has effect, as from the termination date, with the substitution of the relevant proprietor for the authority.
- (5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that sub-paragraph (4) applies to the agreement.
- (6) If the condition in sub-paragraph (7) is met—
- (a) any rights or liabilities that were rights or liabilities of the authority immediately before the termination date by virtue of any provision of this Chapter, or under any agreement to which sub-paragraph (4) applies, are rights or liabilities of the relevant proprietor instead, and
  - (b) any proceedings instituted or continued by or against the authority by virtue of any such provision or agreement may be continued by or against the relevant proprietor instead,
- as from the termination date.
- (7) The condition is that the authority serve a notice on all interested parties stating that sub-paragraph (6) applies to the rights or liabilities or (as the case may be) the proceedings.
- (8) If by virtue of this paragraph a relevant proprietor becomes subject to any liability to pay damages in respect of anything done (or omitted to be done) before the termination date by or on behalf of the authority, the authority are liable to reimburse to the relevant proprietor an amount equal to the amount of the damages paid by him.
- (9) This paragraph applies to instruments as it applies to agreements.
- (10) In this paragraph—
- “agreement” includes arrangement;
  - “the termination date” means the date on which the order ceases to have effect.

*EDMOs: power of entry to carry out work*

- 25 (1) The right mentioned in sub-paragraph (2) is exercisable by the local housing authority, or any person authorised in writing by them, at any time when an interim EDMO or final EDMO is in force.

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- (2) That right is the right at all reasonable times to enter any part of the dwelling for the purpose of carrying out works, and is exercisable as against any person having an estate or interest in the dwelling.
- (3) If, after receiving reasonable notice of the intended action, any occupier of the dwelling prevents any officer, employee, agent or contractor of the local housing authority from carrying out work in the dwelling, a magistrates' court may order him to permit to be done on the premises anything which the authority consider to be necessary.
- (4) A person who fails to comply with an order of the court under sub-paragraph (3) commits an offence.
- (5) A person who commits an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## PART 4

### APPEALS

#### *Appeals: decisions relating to EDMOs*

- 26 (1) A relevant person may appeal to a residential property tribunal against—
- (a) a decision of the local housing authority to make a final EDMO,
  - (b) the terms of a final EDMO (including the terms of the management scheme contained in it), or
  - (c) the terms of an interim EDMO on the grounds that they do not provide for one or both of the matters mentioned in paragraph 5(5)(a) and (b) (which relate to payments of surplus rent etc.).
- (2) Where an appeal is made under sub-paragraph (1)(c)—
- (a) the appeal may be brought at any time while the order is in force (with the result that nothing in sub-paragraph (3) or paragraph 27 applies in relation to the appeal); and
  - (b) the powers of the residential property tribunal under paragraph 28 are limited to determining whether the order should be varied by the tribunal so as to include a term providing for the matter or matters in question, and (if so) what provision should be made by the term.
- (3) If no appeal is brought under this paragraph in respect of a final EDMO within the time allowed by paragraph 27 for making such an appeal, the order is final and conclusive as to the matters which could have been raised on appeal.

#### *Appeals: time limits for appeals under paragraph 26*

- 27 (1) This paragraph applies in relation to an appeal under paragraph 26 in respect of a final EDMO.
- (2) Any such appeal must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7(5) of Schedule 6 (as applied by section 136(5)) as the date on which the order was made.

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- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

*Appeals: powers of residential property tribunal on appeal under paragraph 26*

- 28 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 26 in respect of an interim EDMO or a final EDMO.
- (2) The appeal—
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may—
- (a) in the case of an interim EDMO, vary the order as mentioned in paragraph 26(2)(b), or
  - (b) in the case of a final EDMO, confirm or vary the order or revoke it as from the date of the tribunal’s order.

*“The operative time” for the purposes of paragraph 9(2)*

- 29 (1) This paragraph defines “the operative time” for the purposes of paragraph 9(2).
- (2) If no appeal is made under paragraph 26 before the end of the period of 28 days mentioned in paragraph 27(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 26 before the end of that period, and a decision is given on the appeal which confirms the order, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the order.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the order, and
  - (b) references to a decision which confirms the order are to a decision which confirms it with or without variation.

*Right to appeal against decision or refusal to vary or revoke EDMO*

- 30 A relevant person may appeal to a residential property tribunal against—
- (a) a decision of a local housing authority to vary or revoke an interim EDMO or a final EDMO, or
  - (b) a refusal of a local housing authority to vary or revoke an interim EDMO or a final EDMO.



*Time limits for appeals under paragraph 30*

- 31 (1) This paragraph applies in relation to an appeal under paragraph 30 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim EDMO or a final EDMO.
- (2) Any such appeal must be made before the end of the period of 28 days beginning with the date specified in the notice under paragraph 11, 16, 19 or 22 of Schedule 6 (as applied by paragraph 8 or 17 of this Schedule (as the case may be)) as the date on which the decision concerned was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

*Powers of residential property tribunal on appeal under paragraph 30*

- 32 (1) This paragraph applies to an appeal to a residential property tribunal under paragraph 30 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, an interim EDMO or final EDMO.
- (2) The appeal—
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) If the appeal is against a decision of the authority to refuse to revoke the order, the tribunal may make an order revoking the order as from a date specified in its order.

*“The operative time” for the purposes of paragraphs 6, 7, 15 and 16*

- 33 (1) This paragraph defines “the operative time” for the purposes of—
- (a) paragraph 6(2) or 7(3) (variation or revocation of interim EDMO), or
  - (b) paragraph 15(2) or 16(3) (variation or revocation of final EDMO).
- (2) If no appeal is made under paragraph 30 before the end of the period of 28 days mentioned in paragraph 31(2), “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 30 before the end of that period, and a decision is given on the appeal which confirms the variation or revocation, “the operative time” is as follows—
- (a) if the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
  - (b) if an appeal to the Lands Tribunal is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision which confirms the variation or revocation appealed against; and

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- (b) references to a decision which confirms a variation are to a decision which confirms it with or without variation.

*Right to appeal against decision in respect of compensation payable to third parties*

- 34 (1) This paragraph applies where a local housing authority have made a decision under section 136(4) or 138(3) as to whether compensation should be paid to a third party in respect of any interference with his rights in consequence of a final EDMO.
- (2) The third party may appeal to a residential property tribunal against—
- (a) a decision by the authority not to pay compensation to him, or
  - (b) a decision of the authority so far as relating to the amount of compensation that should be paid.

*Time limits for appeals under paragraph 34*

- 35 (1) This paragraph applies in relation to an appeal under paragraph 34 against a decision of a local housing authority not to pay compensation to a third party or as to the amount of compensation to be paid.
- (2) Any such appeal must be made—
- (a) where the decision is made before the final EDMO is made, within the period of 28 days beginning with the date specified in the notice under paragraph 7(5) of Schedule 6 (as applied by section 136(5)) as the date on which the order was made, or
  - (b) in any other case, within the period of 28 days beginning with the date the authority notifies the third party under section 138(4).
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (2) if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

*Powers of residential property tribunal on appeal under paragraph 34*

- 36 (1) This paragraph applies in relation to an appeal under paragraph 34 against a decision of a local housing authority not to pay compensation to a third party or as to the amount of compensation to be paid.
- (2) The appeal—
- (a) is to be by way of re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) Where the tribunal reverses or varies the decision of the authority, it must make an order varying the management scheme contained in the final EDMO accordingly.

*Meaning of “relevant person” for the purposes of this Part*

- 37 In this Part of this Schedule “relevant person” means any person who has an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c)).

SCHEDULE 8

Section 168

PENALTY CHARGE NOTICES UNDER SECTION 168

- 1 A penalty charge notice given to a person under section 168 by an officer of an enforcement authority must—
  - (a) state the officer's belief that that person has committed a breach of duty;
  - (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty;
  - (c) require that person, within a period specified in the notice—
    - (i) to pay a penalty charge specified in the notice; or
    - (ii) to give notice to the enforcement authority that he wishes the authority to review the notice;
  - (d) state the effect of paragraph 8;
  - (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made; and
  - (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).
- 2 The penalty charge specified in the notice shall be of such amount (not exceeding £500) as may be prescribed for the time being by regulations made by the Secretary of State.
- 3
  - (1) The period specified under paragraph 1(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.
  - (2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if they consider it appropriate to do so.
- 4 The enforcement authority may, if they consider that the penalty charge notice ought not to have been given, give the recipient a notice withdrawing the penalty charge notice.
- 5
  - (1) If, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority shall—
    - (a) consider any representations made by the recipient and all other circumstances of the case;
    - (b) decide whether to confirm or withdraw the notice; and
    - (c) give notice of their decision to the recipient.
  - (2) A notice under sub-paragraph (1)(c) confirming the penalty charge notice must also state the effect of paragraphs 6(1) to (3) and 8(1) and (3).
  - (3) If the authority are not satisfied—
    - (a) that the recipient committed the breach of duty specified in the notice;
    - (b) that the notice was given within the time allowed by section 168(2) and complies with the other requirements imposed by or under this Schedule; and
    - (c) that in the circumstances of the case it was appropriate for a penalty charge notice to be given to the recipient,they shall withdraw the penalty charge notice.

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- 6 (1) If after a review the penalty charge notice is confirmed by the enforcement authority, the recipient may, within the period of 28 days beginning with the day after that on which the notice under paragraph 5(1)(c) is given, appeal to the county court against the penalty charge notice.
- (2) The county court may extend the period for appealing against the notice.
- (3) Such an appeal must be on one (or more) of the following grounds—
- (a) that the recipient did not commit the breach of duty specified in the penalty charge notice;
  - (b) that the notice was not given within the time allowed by section 168(2) or does not comply with any other requirement imposed by or under this Schedule; or
  - (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.
- (4) An appeal against a penalty charge notice shall be by way of a rehearing; and the court shall either uphold the notice or quash it.
- 7 If the penalty charge notice is withdrawn or quashed, the authority shall repay any amount previously paid as a penalty charge in pursuance of the notice.
- 8 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the authority unless—
- (a) the notice has been withdrawn or quashed, or
  - (b) the charge has been paid.
- (2) Proceedings for the recovery of the penalty charge may not be commenced before the end of the period mentioned in paragraph 5(1).
- (3) And if within that period the recipient of the penalty charge notice gives notice to the authority that he wishes the authority to review the penalty charge notice, such proceedings may not be commenced—
- (a) before the end of the period mentioned in paragraph 6(1), and
  - (b) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is withdrawn or determined.
- 9 In proceedings for the recovery of the penalty charge, a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority; and
  - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate;
- is evidence of the facts stated.
- 10 (1) A penalty charge notice and any other notice mentioned in this Schedule may be given by post.
- (2) Any such notice may be given—
- (a) in the case of a body corporate, to the secretary or clerk of that body; and
  - (b) in the case of a partnership, to any partner or to a person having control or management of the partnership business.

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

## SCHEDULE 9

Section 183

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

#### “SCHEDULE 5A

Section 138A

#### INITIAL DEMOLITION NOTICES

#### **Initial demolition notices**

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

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- (4) The period specified in accordance with sub-paragraph (1)(c) must not—
- (a) allow the landlord more than what is, in the circumstances, a reasonable period to carry out the proposed demolition of the relevant premises (whether on their own or as part of a scheme involving the demolition of other premises); or
  - (b) in any case expire more than five years after the date of service of the notice on the tenant.

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

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

### **Revocation or termination of initial demolition notices**

- 3 (1) Paragraph 15(4) to (7) of Schedule 5 (revocation notices) shall apply in relation to an initial demolition notice as they apply in relation to a final demolition notice.
- (2) If a compulsory purchase order has been made for the purpose of enabling the landlord to demolish the dwelling-house in respect of which he has served an initial demolition notice (whether or not it would enable him to demolish any other premises as well) and—
- (a) a relevant decision within sub-paragraph (3)(a) becomes effective while the notice is in force, or
  - (b) a relevant decision within sub-paragraph (3)(b) becomes final while the notice is in force,

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the notice ceases to be in force as from the date when the decision becomes effective or final.

- (3) A “relevant decision” is—
- (a) a decision under Part 2 of the Acquisition of Land Act 1981 to confirm the order with modifications, or not to confirm the whole or part of the order, or
  - (b) a decision of the High Court to quash the whole or part of the order under section 24 of that Act,
- where the effect of the decision is that the landlord will not be able, by virtue of that order, to carry out the demolition of the dwelling-house.
- (4) A relevant decision within sub-paragraph (3)(a) becomes effective—
- (a) at the end of the period of 16 weeks beginning with the date of the decision, if no application for judicial review is made in respect of the decision within that period, or
  - (b) if such an application is so made, at the time when—
    - (i) a decision on the application which upholds the relevant decision becomes final, or
    - (ii) the application is abandoned or otherwise ceases to have effect.
- (5) A relevant decision within sub-paragraph (3)(b), or a decision within sub-paragraph (4)(b), becomes final—
- (a) if not appealed against, at the end of the period for bringing an appeal, or
  - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (6) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
  - (b) if it is abandoned or otherwise ceases to have effect.
- (7) Where an initial demolition notice ceases to be in force under sub-paragraph (2), the landlord must, as soon as is reasonably practicable, serve a notice on the tenant which informs him—
- (a) that the notice has ceased to be in force as from the date in question, and
  - (b) of the reason why it has ceased to be in force.
- (8) If, while an initial demolition notice is in force in respect of a dwelling-house, a final demolition notice comes into force under paragraph 13 of Schedule 5 in respect of that dwelling-house, the initial demolition notice ceases to be in force as from the date when the final demolition notice comes into force.
- (9) In such a case the final demolition notice must state that it is replacing the initial demolition notice.

#### **Restriction on serving further demolition notices**

- 4 (1) This paragraph applies where an initial demolition notice (“the relevant notice”) has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished.

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- (2) No further initial demolition notice may be served in respect of the dwelling-house during the period of 5 years following the time when the relevant notice ceases to be in force, unless—
  - (a) it is served with the consent of the Secretary of State, and
  - (b) it states that it is so served.
- (3) Subject to sub-paragraph (4), no final demolition notice may be served in respect of the dwelling-house during the period of 5 years following the time when the relevant notice ceases to be in force, unless—
  - (a) it is served with the consent of the Secretary of State, and
  - (b) it states that it is so served.
- (4) Sub-paragraph (3) does not apply to a final demolition notice which is served at a time when an initial demolition notice served in accordance with sub-paragraph (2) is in force.
- (5) The Secretary of State’s consent under sub-paragraph (2) or (3) may be given subject to compliance with such conditions as he may specify.

### **Service of notices**

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

### **Interpretation**

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

## SCHEDULE 10

Section 212

### PROVISIONS RELATING TO TENANCY DEPOSIT SCHEMES

#### *Schemes to be custodial schemes or insurance schemes*

- 1 (1) A tenancy deposit scheme must be either—
  - (a) a custodial scheme, or
  - (b) an insurance scheme.
- (2) A “custodial scheme” is a scheme under which—
  - (a) tenancy deposits in connection with shorthold tenancies are paid to the landlords under the tenancies,



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- (b) amounts representing the deposits are then paid by the landlords into a designated account held by the scheme administrator, and
  - (c) those amounts are kept by the scheme administrator in that account until such time as, in accordance with the scheme, they fall to be paid (wholly or in part) to the landlords or tenants under the tenancies.
- (3) An “insurance scheme” is a scheme under which—
- (a) tenancy deposits in connection with shorthold tenancies are paid to the landlords under the tenancies,
  - (b) such deposits are retained by the landlords on the basis that, at the end of the tenancies—
    - (i) such amounts in respect of the deposits as are agreed between the tenants and the landlords will be repaid to the tenants, and
    - (ii) such amounts as the tenants request to be repaid to them and which are not so repaid will, in accordance with directions given by the scheme administrator, be paid into a designated account held by the scheme administrator,
  - (c) amounts paid into that account are kept by the scheme administrator in the account until such time as, in accordance with the scheme, they fall to be paid (wholly or in part) to the landlords or tenants under the tenancies,
  - (d) landlords undertake to reimburse the scheme administrator, in accordance with directions given by him, in respect of any amounts in respect of the deposits paid to the tenants by the scheme administrator (other than amounts paid to the tenants as mentioned in paragraph (c)), and
  - (e) insurance is maintained by the scheme administrator in respect of failures by landlords to comply with such directions.

*Provisions applying to custodial and insurance schemes*

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

*Custodial schemes: general*

- 3 (1) This paragraph applies to a custodial scheme.
- (2) The scheme must provide for any landlord who receives a tenancy deposit in connection with a shorthold tenancy to pay an amount equal to the deposit into a designated account held by the scheme administrator.
  - (3) The designated account must not contain anything other than amounts paid into it as mentioned in sub-paragraph (2) and any interest accruing on such amounts.
  - (4) Subject to sub-paragraph (5), the scheme administrator may retain any interest accruing on such amounts.
  - (5) The relevant arrangements under section 212(1) may provide for any amount paid in accordance with paragraph 4 to be paid with interest—

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- (a) in respect of the period during which the relevant amount has remained in the designated account, and
  - (b) at such rate as the appropriate national authority may specify by order.
- (6) With the exception of any interest retained in accordance with sub-paragraph (4), nothing contained in the designated account may be used to fund the administration of the scheme.
- (7) In this paragraph “the relevant amount”, in relation to a tenancy deposit, means the amount paid into the designated account in respect of the deposit.

*Custodial schemes: termination of tenancies*

- 4 (1) A custodial scheme must make provision—
- (a) for enabling the tenant and the landlord under a shorthold tenancy in connection with which a tenancy deposit is held in accordance with the scheme to apply, at any time after the tenancy has ended, for the whole or part of the relevant amount to be paid to him, and
  - (b) for such an application to be dealt with by the scheme administrator in accordance with the following provisions of this paragraph.
- (2) Sub-paragraph (3) applies where the tenant and the landlord notify the scheme administrator that they have agreed that the relevant amount should be paid—
- (a) wholly to one of them, or
  - (b) partly to the one and partly to the other.
- (3) If, having received such a notification, the scheme administrator is satisfied that the tenant and the landlord have so agreed, the scheme administrator must arrange for the relevant amount to be paid, in accordance with the agreement, within the period of 10 days beginning with the date on which the notification is received by the scheme administrator.
- (4) Sub-paragraph (5) applies where the tenant or the landlord notifies the scheme administrator that—
- (a) a court has decided that the relevant amount is payable either wholly to one of them or partly to the one and partly to the other, and
  - (b) that decision has become final.
- (5) If, having received such a notification, the scheme administrator is satisfied as to the matters mentioned in sub-paragraph (4)(a) and (b), the scheme administrator must arrange for the relevant amount to be paid, in accordance with the decision, within the period of 10 days beginning with the date on which the notification is received by the scheme administrator.
- (6) For the purposes of this Schedule a decision becomes final—
- (a) if not appealed against, at the end of the period for bringing an appeal, or
  - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.
- (7) An appeal is disposed of—
- (a) if it is determined and the period for bringing any further appeal has ended, or
  - (b) if it is abandoned or otherwise ceases to have effect.
- (8) In this paragraph “the relevant amount” has the meaning given by paragraph 3(7).

*Insurance schemes: general*

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

*Insurance schemes: termination of tenancies*

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

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- (b) that the tenant and landlord have agreed that such an amount is to be paid either wholly to one of them or partly to the one and partly to the other.
- (5) If the scheme administrator is satisfied as to the matters mentioned in sub-paragraph (4)(a) or (b) (as the case may be), he must—
  - (a) pay to the tenant any amount due to him in accordance with the decision or agreement (and, to the extent possible, pay that amount out of any amount held by him by virtue of sub-paragraph (3)), and
  - (b) comply with sub-paragraph (6) or (7), as the case may be.
- (6) Where any amount held by the scheme administrator by virtue of sub-paragraph (3) is more than any amount due to the tenant in accordance with the decision or agreement, the scheme administrator must pay the balance to the landlord.
- (7) Where any amount so held by the scheme administrator is less than any amount so due to the tenant, the scheme administrator must direct the landlord to pay him the difference within the period of 10 days beginning with the date on which the direction is received by the landlord.
- (8) The scheme administrator must pay any amounts required to be paid to the tenant or the landlord as mentioned in sub-paragraph (5)(a) or (6) within 10 days beginning with the date on which the notification is received by the scheme administrator.
- (9) The landlord must comply with any direction given in accordance with sub-paragraph (3) or (7).
- 7 (1) The designated account held by the scheme administrator must not contain anything other than amounts paid into it as mentioned in paragraph 6(3) and any interest accruing on such amounts.
- (2) Subject to sub-paragraph (3), the scheme administrator may retain any interest accruing on such amounts.
- (3) The relevant arrangements under section 212(1) may provide for any amount paid in accordance with paragraph 6(5)(a) or (6) to be paid with interest—
  - (a) in respect of the period during which the relevant amount has remained in the designated account, and
  - (b) at such rate as the appropriate national authority may specify for the purposes of paragraph 3(5)(b).
- (4) With the exception of any interest retained in accordance with sub-paragraph (2), nothing contained in the designated account may be used to fund the administration of the scheme.
- (5) In this paragraph “the relevant amount”, in relation to a tenancy deposit, means the amount, in respect of the deposit, paid into the designated account by virtue of a direction given in accordance with paragraph 6(3).
- 8 (1) The scheme must make provision for preventing double recovery by a tenant in respect of the whole or part of the deposit, and may in that connection make provision—
  - (a) for excluding or modifying any requirement imposed by the scheme in accordance with paragraph 6 or 7, and
  - (b) for requiring the repayment of amounts paid to the tenant by the scheme administrator.

- (2) In this paragraph “double recovery”, in relation to an amount of a tenancy deposit, means recovering that amount both from the scheme administrator and from the landlord.

#### *Notifications to tenants*

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

#### *Dispute resolution procedures*

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

#### *Power to amend*

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

#### *Interpretation*

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

## SCHEDULE 11

Section 218

### REGISTERED SOCIAL LANDLORDS

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

- 1 In section 87 of the Housing Associations Act 1985 (financial assistance with respect to formation, management, etc. of certain housing associations) omit—
- (a) in subsection (3), the words from “, acting” onwards, and
  - (b) subsection (6).

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

- 2 The Housing Act 1988 is amended as follows.
- 3 In section 50(2) (housing association grants) omit the words from “, acting” onwards.

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- 4        In section 52(2) (recovery etc. of grants) omit the words from “, acting” to “determine,”.
- 5        Omit section 55 (surplus rental income).
- 6        In section 59(1A) (interpretation) for “55” substitute “54”.

*Housing Act 1996 (c. 52)*

- 7        The Housing Act 1996 is amended as follows.
- 8        In section 18(2) (social housing grants) omit the words from “, acting” to “determine,”.
- 9        In section 20(3) (purchase grant where right to acquire exercised) omit the words from “, acting” to “determine,”.
- 10       In section 21(3) (purchase grant in respect of other disposals) omit the words from “, acting” to “determine,”.
- 11       In section 28 (grants under sections 50 to 55 of the Housing Act 1988), in the sidenote and in subsection (6), for “55” substitute “54”.
- 12       (1) In section 31(2) (offence of intentionally altering etc. document required to be produced under section 30), for paragraph (b) substitute—
  - “(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.”
- (2) The amendment made by sub-paragraph (1) does not apply in relation to any offence committed before the day on which that sub-paragraph comes into force.
- 13       (1) Section 36 (issue of guidance by the Relevant Authority) is amended as follows.
- (2) In subsection (2) (particular matters with respect to which guidance may be issued under the section) for “this section” substitute “subsection (1)”.
- (3) After subsection (2) insert—
  - “(2A) The Relevant Authority may also issue guidance with respect to—
    - (a) the governance of bodies that are registered social landlords;
    - (b) the effective management of such bodies;
    - (c) establishing and maintaining the financial viability of such bodies.”
- (4) In subsection (7) (guidance relevant to whether there has been mismanagement) after “there has been” insert “misconduct or”.
- 14       In paragraph 1(2) of Schedule 1 (payments by way of gift, dividend or bonus) after paragraph (b) insert—
  - “(c) the payment of a sum, in accordance with the constitution or rules of the body, to a registered social landlord which is a subsidiary or associate of the body.”
- 15       (1) Paragraph 15 of Schedule 1 (transfer of net assets on dissolution or winding up) is amended as follows.
- (2) In sub-paragraph (1)(b), after “1985” insert “(including such a company which is also a registered charity)”.
- (3) At the end of sub-paragraph (4) insert—

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“And in such a case any registered social landlord specified in a direction under sub-paragraph (2) must be one to which paragraphs (a) and (b) above apply.”

16 After paragraph 15 insert—

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

- 15A (1) The Secretary of State may by regulations provide for any provisions of paragraph 15(2) to (6) to apply in relation to a registered social landlord within sub-paragraph (2)—
- (a) in such circumstances, and
  - (b) with such modifications,
- as may be specified in the regulations.
- (2) A registered social landlord is within this sub-paragraph if—
- (a) it is a registered charity, and
  - (b) it does not fall within sub-paragraph (1) of paragraph 15.
- (3) Regulations under this paragraph may in particular provide that any provision of the regulations requiring the transfer of any property of the charity is to have effect notwithstanding—
- (a) anything in the terms of its trusts, or
  - (b) any resolution, order or other thing done for the purposes of, or in connection with, the termination of the charity in any manner specified in the regulations.
- (4) Any regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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

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

(3) For sub-paragraph (5) substitute—

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

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

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

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

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

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

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

(8) In such a case—

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

18 After paragraph 16 of Schedule 1 insert—

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

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

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

- (a) subsection (2) shall apply in relation to an RSL company which meets the total exemption conditions in respect of a financial year (whether it is a charity or not), and
- (b) that subsection shall apply in relation to such a company in the same way as it applies in relation to an RSL company which is a charity and meets the report conditions in relation to a financial year; and
- (c) subsection (1) accordingly does not have effect in relation to an RSL company.

(3) In section 249C of that Act (report required for the purposes of section 249A(2)), subsection (3) shall apply in relation to an RSL company within sub-paragraph (2)(a) above as if the reference to satisfying the requirements of section 249A(4) were a reference to meeting the total exemption conditions.

(4) The Relevant Authority may, in respect of any relevant financial year of an RSL company, give a direction to the company requiring it—

- (a) to appoint a qualified auditor to audit its accounts and balance sheet for that year, and
- (b) to furnish to the Relevant Authority a copy of the auditor's report by such date as is specified in the direction.

(5) For the purposes of sub-paragraph (4), a financial year of an RSL company is a “relevant financial year” if—

- (a) it precedes that in which the direction is given, and
- (b) the company met either the total exemption conditions or the report conditions in respect of that year, and
- (c) its accounts and balance sheet for that year were not audited in accordance with Part 7 of the Companies Act 1985.

(6) In this paragraph—



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- (a) “financial year” has the meaning given by section 223 of the Companies Act 1985;
- (b) “qualified auditor” means a person who is eligible for appointment as auditor of the company under Part 2 of the Companies Act 1989;
- (c) any reference to a company meeting the report conditions is to be read in accordance with section 249A(4) of the Companies Act 1985; and
- (d) any reference to a company meeting the total exemption conditions is to be read in accordance with section 249A(3) or section 249A(3) and (3A) of that Act, depending on whether it is a charity.”

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

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

- 17 (1) This paragraph applies to registered social landlords which are industrial and provident societies.
- (2) Section 9A of the Friendly and Industrial and Provident Societies Act 1968 (duty to obtain accountant’s reports where section 4 applied) shall have effect, in its application to such a landlord, with the omission of subsection (1)(b) (accountant’s report required only where turnover exceeds a specified sum).
- (3) The Relevant Authority may, in respect of any relevant year of account of such a landlord, give a direction to the landlord requiring it—
- (a) to appoint a qualified auditor to audit its accounts and balance sheet for that year, and
  - (b) to furnish to the Relevant Authority a copy of the auditor’s report by such date as is specified in the direction.
- (4) For the purposes of sub-paragraph (3), a year of account of a landlord is a “relevant year of account” if—
- (a) it precedes that in which the direction is given, and
  - (b) at the end of it there is in force in relation to it a disapplication under section 4A(1) of the Friendly and Industrial and Provident Societies Act 1968.
- (5) In this paragraph—
- “qualified auditor” means a person who is a qualified auditor for the purposes of the Friendly and Industrial and Provident Societies Act 1968;
  - “year of account” has the meaning given by section 21(1) of that Act.”

20 (1) Paragraph 18 of Schedule 1 (accounting and audit requirements for charities) is amended as follows.

(2) In the cross-heading preceding the paragraph, after “and audit” insert “or reporting”.

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- (3) In sub-paragraph (1) (application of provisions to registered social landlord which is a registered charity) omit the words from “(which impose” onwards.
- (4) For sub-paragraph (4) substitute—
- “(4) The charity must appoint a qualified auditor (“the auditor”) to audit the accounts prepared in accordance with sub-paragraph (3) in respect of each period of account in which—
- (a) the charity’s gross income (within the meaning of the Charities Act 1993) arising in connection with its housing activities, or
- (b) its total expenditure arising in connection with those activities, exceeds the sum for the time being specified in section 43(1) of the Charities Act 1993 (audit required for charities where gross income or total income exceeds the specified sum).
- (4A) Where sub-paragraph (4) does not apply in respect of a period of account, the charity must appoint a qualified auditor (“the reporting accountant”) to make such a report as is mentioned in paragraph 18A(1) in respect of the period of account.
- (4B) In sub-paragraphs (4) and (4A) “qualified auditor” means a person who is eligible for appointment as auditor of the charity under Part 2 of the Companies Act 1989 or who would be so eligible if the charity were a company registered under the Companies Act 1985.”
- 21 After paragraph 18 of Schedule 1 insert—
- “Charities exempt from audit requirements: accountant’s report*
- 18A (1) The report referred to in paragraph 18(4A) is a report—
- (a) relating to the charity’s accounts prepared in accordance with paragraph 18(3) in respect of the period of account in question, and
- (b) complying with sub-paragraphs (2) and (3) below.
- (2) The report must state whether, in the opinion of the reporting accountant—
- (a) the revenue account or accounts and the balance sheet are in agreement with the books of account kept by the charity under paragraph 18(2),
- (b) on the basis of the information contained in those books of account, the revenue account or accounts and the balance sheet comply with the requirements of the Charities Act 1993, and
- (c) on the basis of the information contained in those books of account, paragraph 18(4A) applied to the charity in respect of the period of account in question.
- (3) The report must also state the name of the reporting accountant and be signed by him.
- (4) Paragraph 18(7) applies to the reporting accountant and his functions under this paragraph as it applies to an auditor and his functions under paragraph 18.

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- (5) The Relevant Authority may, in respect of a relevant period of account of a charity, give a direction to the charity requiring it—
- (a) to appoint a qualified auditor to audit its accounts for that period, and
  - (b) to furnish to the Relevant Authority a copy of the auditor’s report by such date as is specified in the direction;
- and paragraph 18(5) to (7) apply to an auditor so appointed as they apply to an auditor appointed under paragraph 18.
- (6) For the purposes of sub-paragraph (5), a period of account of a charity is a relevant period of account if—
- (a) it precedes that in which the direction is given; and
  - (b) paragraph 18(4A) applied in relation to it.
- (7) In this paragraph “period of account” and “qualified auditor” have the same meaning as in paragraph 18(4A).”
- 22 (1) Paragraph 19 of Schedule 1 (responsibility for securing compliance with accounting requirements) is amended as follows.
- (2) In sub-paragraph (2)—
- (a) in paragraph (c), after “and audit” insert “or reporting”;
  - (b) omit paragraph (d) (but not the “or” at the end); and
  - (c) for “level 3” substitute “level 5”.
- (3) The amendment made by sub-paragraph (2)(c) does not apply in relation to any offence committed before the day on which that sub-paragraph comes into force.
- (4) After sub-paragraph (4) insert—
- “(5) Where any of paragraphs (a) to (e) of sub-paragraph (2) applies in respect of any default on the part of a registered social landlord, the High Court may, on the application of the Relevant Authority, make such order as the court thinks fit for requiring the default to be made good.
- Any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the registered social landlord or by any of its officers who are responsible for the default.”
- 23 After paragraph 19 of Schedule 1 insert—
- “Disclosure of information by auditors etc. to the Relevant Authority*
- 19A (1) A person who is, or has been, an auditor of a registered social landlord does not contravene any duty to which he is subject merely because he gives to the Relevant Authority —
- (a) information on a matter of which he became aware in his capacity as auditor of the registered social landlord, or
  - (b) his opinion on such a matter,
- if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the Relevant Authority.

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- (2) Sub-paragraph (1) applies whether or not the person is responding to a request from the Relevant Authority.
  - (3) This paragraph applies to a person who is, or has been, a reporting accountant as it applies to a person who is, or has been, an auditor.
  - (4) A “reporting accountant” means a person appointed as mentioned in paragraph 16(7)(b).”
- 24 (1) Paragraph 20 of Schedule 1 (inquiry into affairs of registered social landlord) is amended as follows.
- (2) After sub-paragraph (4) insert—
    - “(4A) The person or persons conducting the inquiry may determine the procedure to be followed in connection with the inquiry.”
  - (3) At the end of sub-paragraph (7) add “, and the Relevant Authority may arrange for the whole or part of an interim or final report to be published in such manner as it considers appropriate.”
  - (4) After sub-paragraph (7) insert—
    - “(8) A local authority may, if they think fit, contribute to the expenses of the Relevant Authority in connection with any inquiry under this paragraph.”
- 25 After paragraph 20 of Schedule 1 insert—

*“Evidence*

- 20A (1) For the purposes of an inquiry the person or persons conducting it may serve a notice on an appropriate person directing him to attend at a specified time and place and do either or both of the following, namely—
- (a) give evidence;
  - (b) produce any specified documents, or documents of a specified description, which are in his custody or under his control and relate to any matter relevant to the inquiry.
- (2) The person or persons conducting such an inquiry—
- (a) may take evidence on oath and for that purpose administer oaths, or
  - (b) instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matters about which he is examined.
- (3) In this paragraph—
- “appropriate person” means a person listed in section 30(2);
  - “document” has the same meaning as in section 30;
  - “inquiry” means an inquiry under paragraph 20.
- (4) A person may not be required under this paragraph to disclose anything that, by virtue of section 30(4), he could not be required to disclose under section 30.
- (5) Section 31 (enforcement of notice to provide information, &c) applies in relation to a notice given under this paragraph by the person or persons

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- conducting an inquiry as it applies in relation to a notice given under section 30 by the Relevant Authority, but subject to sub-paragraph (6).
- (6) A person guilty of an offence under section 31(1) as it applies in accordance with sub-paragraph (5) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (7) Any person who, in purported compliance with a notice given under this paragraph by the person or persons conducting an inquiry, knowingly or recklessly provides any information which is false or misleading in a material particular commits an offence and is liable to the penalties mentioned in sub-paragraph (6).
- (8) Proceedings for an offence under sub-paragraph (7) may be brought only by or with the consent of the Relevant Authority or the Director of Public Prosecutions.”
- 26 (1) Paragraph 21 of Schedule 1 (power of appointed person to obtain information) is amended as follows.
- (2) At the end of sub-paragraph (3) (application of section 31 to notice under paragraph 20) add “, but subject to sub-paragraph (4).”
- (3) After sub-paragraph (3) add—
- “(4) A person guilty of an offence under section 31(1) as it applies in accordance with sub-paragraph (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) Any person who, in purported compliance with a notice given under this paragraph by an appointed person, knowingly or recklessly provides any information which is false or misleading in a material particular commits an offence and is liable to the penalties mentioned in sub-paragraph (4).
- (6) Proceedings for an offence under sub-paragraph (5) may be brought only by or with the consent of the Relevant Authority or the Director of Public Prosecutions.”
- (4) The amendments made by this paragraph do not apply in relation to any offence committed or other thing done before the day on which this paragraph comes into force.

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## SCHEDULE 12

Section 228(3)

## NEW SCHEDULE 2A TO THE HOUSING ACT 1996

## “SCHEDULE 2A

Section 51A(7)

## FURTHER PROVISION ABOUT THE SOCIAL HOUSING OMBUDSMAN FOR WALES

**Status**

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

**Remuneration, etc.**

- 2 The National Assembly for Wales may pay to or in respect of the Ombudsman such amounts, by way of remuneration, pensions, allowances or gratuities or by way of provision for any such benefits, as it considers appropriate.
- 3 If a person ceases to be the Ombudsman and it appears to the National Assembly for Wales that there are special circumstances which make it right that the person should receive compensation, the National Assembly for Wales may pay to that person a sum of such amount as it considers appropriate.

**Staff and advisers**

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

**Delegation of functions**

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

### **Reports and determinations**

- 6 (1) The Ombudsman—
- (a) shall annually prepare and lay before the National Assembly for Wales a general report on the performance of his functions; and
  - (b) may from time to time prepare and lay before the National Assembly for Wales such other reports with respect to his functions as he thinks fit.
- (2) The National Assembly for Wales shall, and the Ombudsman may, publish reports laid before the National Assembly for Wales under sub-paragraph (1).
- 7 The Ombudsman may, subject to any provision made by regulations under section 51B, publish his determination on any complaint.
- 8 (1) The Ombudsman may include in any report or determination published under paragraph 6 or 7 statements, communications, reports, papers or other documentary evidence obtained in the exercise of his functions.
- (2) In publishing any report or determination, the Ombudsman shall have regard to the need for excluding so far as practicable—
- (a) any matter which relates to the private affairs of an individual, where publication would seriously and prejudicially affect the interests of that individual, and
  - (b) any matter which relates specifically to a social landlord in Wales, where publication would seriously and prejudicially affect its interests,
- unless inclusion of the matter concerned is necessary for the purposes of the report or determination.

### **Expenses**

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

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

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

### **Disclosure of information**

- 11 (1) Information obtained by the Ombudsman in the course of or for the purposes of an investigation of a complaint must not be disclosed except—
- (a) for the purposes of the investigation, of any determination made in respect of the complaint or of the publication of a determination under paragraph 7;

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- (b) as provided in paragraph 12 or 17 or any regulations under section 51B;
  - (c) for the purposes of any proceedings for an offence of perjury alleged to have been committed in the course of an investigation of a complaint by the Ombudsman; or
  - (d) for the purposes of an inquiry with a view to the taking of any proceedings as mentioned in paragraph (c).
- (2) The Ombudsman shall not be called upon to give evidence in any proceedings (other than proceedings within sub-paragraph (1)(c)) of matters coming to his knowledge in the course of an investigation of a complaint.
- (3) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of sub-paragraph (1) as obtained for the purposes of an investigation and, in relation to such information, the reference in paragraph (a) of that sub-paragraph to the investigation shall have effect as a reference to any investigation.
- 12 The Ombudsman may disclose to the Information Commissioner any information obtained by, or furnished to, the Ombudsman by virtue of or for the purposes of section 51A or 51B if the information appears to him to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
    - (i) Part V of the Data Protection Act 1998 (enforcement),
    - (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
    - (iii) Part IV of that Act (enforcement), or
  - (b) the commission of an offence under—
    - (i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or
    - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).

### **Accounts and audit**

- 13 (1) The Ombudsman shall keep proper accounting records.
- (2) The Ombudsman shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury.
- (3) The directions which the Treasury may give under sub-paragraph (2) include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented,
  - (b) the methods and principles in accordance with which the accounts are to be prepared, and
  - (c) the additional information (if any) that is to accompany the accounts.
- (4) In this paragraph and in paragraph 14, “financial year” means the twelve months ending with 31st March.
- 14 (1) The accounts prepared by the Ombudsman for any financial year shall be submitted by him to the Auditor General for Wales no later than the 30th November of the following year.



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

### **Accounting officer**

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

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- (8) Section 13 of the National Audit Act 1983 (interpretation of references to the Committee of Public Accounts) applies for the purposes of this paragraph as for those of that Act.

**Examinations into use of resources**

- 16 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Ombudsman has used the resources of the Office of the Ombudsman in discharging his functions.
- (2) Sub-paragraph (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Ombudsman.
- (3) In determining how to exercise his functions under this paragraph, the Auditor General for Wales shall take into account the views of the Audit Committee as to the examinations which he should carry out under this paragraph.
- (4) The Auditor General for Wales may lay before the National Assembly for Wales a report of the results of any examination carried out by him under this paragraph.
- (5) Section 7 of the National Audit Act 1983 (economy, efficiency and effectiveness examinations by Comptroller and Auditor General) applies to the Ombudsman.
- (6) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Ombudsman under this paragraph or section 7 of the National Audit Act 1983.
- 17 (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Office of the Ombudsman, the Comptroller and Auditor General—
- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Ombudsman, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
- (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- (2) The Comptroller and Auditor General shall—
- (a) consult the Auditor General for Wales, and
- (b) take into account any relevant work done or being done by the Auditor General for Wales,
- before he acts in reliance on sub-paragraph (1) or carries out an examination in respect of the Ombudsman under section 7 of the National Audit Act 1983 (economy etc. examinations).”

## SCHEDULE 13

Section 230

### RESIDENTIAL PROPERTY TRIBUNALS: PROCEDURE

#### *Procedure regulations*

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

#### *Appeals*

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

#### *Transfers*

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

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

*Parties etc.*

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

*Information*

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

*Pre-trial reviews etc.*

- 6 (1) Procedure regulations may include provision for the holding of a pre-trial review (on the application of a party to the proceedings or on the tribunal's own initiative).

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

#### *Interim orders*

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

#### *Additional relief*

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

#### *Dismissal*

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

#### *Determination without hearing*

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

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- (b) “the panel” means the panel provided for in Schedule 10 to the Rent Act 1977 (c. 42).

### *Fees*

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

### *Costs*

- 12 (1) A tribunal may determine that a party to proceedings before it is to pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
- (2) The circumstances are where—
- (a) he has failed to comply with an order made by the tribunal;
  - (b) in accordance with regulations made by virtue of paragraph 5(4), the tribunal dismisses, or allows, the whole or part of an application or appeal by reason of his failure to comply with a requirement imposed by regulations made by virtue of paragraph 5;
  - (c) in accordance with regulations made by virtue of paragraph 9, the tribunal dismisses the whole or part of an application or appeal made by him to the tribunal; or
  - (d) he has, in the opinion of the tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph must not exceed—
- (a) £500, or
  - (b) such other amount as may be specified in procedure regulations.
- (4) A person may not be required to pay costs incurred by another person in connection with proceedings before a tribunal, except—

- (a) by a determination under this paragraph, or
- (b) in accordance with provision made by any enactment other than this paragraph.

### *Enforcement*

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

## SCHEDULE 14

Section 254

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

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

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

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

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

#### *Buildings regulated otherwise than under this Act*

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

#### *Buildings occupied by students*

- 4 (1) Any building—
- (a) which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a specified description, and

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

*Buildings occupied by religious communities*

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

*Buildings occupied by owners*

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



*Buildings occupied by two persons*

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

SCHEDULE 15

Section 265(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

*Parliamentary Commissioner Act 1967 (c. 13)*

- 1 (1) Section 11A of the Parliamentary Commissioner Act 1967 (consultation between Parliamentary Commissioner and Welsh Administration Ombudsman or Health Service Commissioners) is amended as follows.
- (2) In the sidenote for “Welsh Administration Ombudsman or Health Service Commissioners” substitute “other Commissioners or Ombudsmen”.
- (3) In subsection (1)—
- (a) after “Ombudsman” insert “, of the Social Housing Ombudsman for Wales”;
- and
- (b) in paragraph (b) for “or” substitute “, under regulations under section 51B of the Housing Act 1996 or under”.
- (4) In subsection (2) after “Ombudsman” insert “, the Social Housing Ombudsman for Wales”.

*Land Compensation Act 1973 (c. 26)*

- 2 The Land Compensation Act 1973 has effect subject to the following amendments.
- 3 (1) Section 29 (right to home loss payment where person displaced from dwelling) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (b) substitute—
- “(b) the making of a housing order in respect of the dwelling;”;
- and
- (b) in paragraph (ii) for the words from “the order” onwards substitute “the housing order;”.
- (3) In subsection (3A) for the words from “the acceptance” onwards substitute “the carrying out of any improvement to the dwelling unless he is permanently displaced from it in consequence of the carrying out of that improvement.”
- (4) For subsection (7) substitute—
- “(7) In this section “a housing order” means—
- (a) a prohibition order under section 20 or 21 of the Housing Act 2004,
- or
- (b) a demolition order under section 265 of the Housing Act 1985.”
- 4 (1) Section 33D (loss payments: exclusions) is amended as follows.
- (2) In subsection (4) for paragraphs (b) and (c) substitute—

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- “(b) notice under section 11 of the Housing Act 2004 (improvement notice relating to category 1 hazard);
- (c) notice under section 12 of that Act (improvement notice relating to category 2 hazard);”.
- (3) For subsection (5) substitute—
- “(5) These are the orders—
- (a) an order under section 20 of the Housing Act 2004 (prohibition order relating to category 1 hazard);
- (b) an order under section 21 of that Act (prohibition order relating to category 2 hazard);
- (c) an order under section 43 of that Act (emergency prohibition orders);
- (d) an order under section 265 of the Housing Act 1985 (demolition order relating to category 1 or 2 hazard).”
- 5 (1) Section 37 (disturbance payments for persons with compensatable interests) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (b) substitute—
- “(b) the making of a housing order in respect of a house or building on the land;”;
- (b) in paragraph (ii) for the words from “the order” onwards substitute “the housing order;”.
- (3) In subsection (2)(c) for “closing” substitute “prohibition”.
- (4) In subsection (3) for the words from “any such order” onwards substitute “a housing order within paragraph (b) of that subsection unless he was in lawful possession as aforesaid at the time when the order was made.”
- (5) In subsection (3A) for the words from “the acceptance” onwards substitute “the carrying out of any improvement to a house or building unless he is permanently displaced in consequence of the carrying out of that improvement.”
- (6) In subsection (9) omit “or undertaking”.
- 6 (1) Section 39 (duty to rehouse residential occupiers) is amended as follows.
- (2) In subsection (1) for paragraph (b) substitute—
- “(b) the making of a housing order in respect of a house or building on the land;”.
- (3) In subsection (6) for the words from “any such order” onwards substitute “a housing order within paragraph (b) of that subsection unless he was residing in the accommodation in question at the time when the order was made.”
- (4) In subsection (6A) for the words from “the acceptance” onwards substitute “the carrying out of any improvement to a house or building unless he is permanently displaced from the residential accommodation in question in consequence of the carrying out of that improvement.”
- (5) In subsection (9) omit “or undertaking”.

*Local Government Act 1974 (c. 7)*

- 7 (1) Section 33 of the Local Government Act 1974 (consultation between the Local Commissioner, other commissioners and the Welsh Administration Ombudsman) is amended as follows.
- (2) In the sidenote for “the Parliamentary Commissioner and the Health Service Commissioners” substitute “and other Commissioners and Ombudsmen”.
- (3) In subsection (1)—
- (a) after paragraph (a) insert—
- “(aza) by the Social Housing Ombudsman for Wales, in accordance with regulations under section 51B of the Housing Act 1996,”;
- (b) omit “the” after “appropriate Commissioner or”; and
- (c) after “the Act of 1967” insert “, under the Housing Act 1996”.
- (4) In subsection (2)—
- (a) after “Parliamentary Commissioner” insert “, the Social Housing Ombudsman for Wales”; and
- (b) omit “the” after “that Commissioner or”.
- (5) In subsection (5) after “1967” insert “, in paragraph 13(1) of Schedule 2A to the Housing Act 1996”.

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

- 8 In section 9(1) of the Greater London Council (General Powers) Act 1981—
- (a) for the words from “a registration scheme” to “section 354 of that Act,” substitute “a licence under Part 2 of the Housing Act 2004”; and
- (b) for “358” substitute “134”.

*Mobile Homes Act 1983 (c. 34)*

- 9 In section 2 of the Mobile Homes Act 1983 (terms of agreements) after subsection (4) insert—
- “(5) The supplementary provisions in Part 3 of Schedule 1 to this Act have effect for the purposes of paragraphs 8 and 9 of Part 1 of that Schedule.”

*Housing Act 1985 (c. 68)*

- 10 The Housing Act 1985 has effect subject to the following amendments.
- 11 In section 8(2) (periodical review of housing needs) for “section 605” substitute “section 3 of the Housing Act 2004”.
- 12 For section 252(c) (definition of “house in multiple occupation” for purposes of Part 8) substitute—
- “(c) “house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act), but

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does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household.”

13 For section 268 (service of notice of demolition and closing orders) substitute—

**“Service of copies of demolition order**

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

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

15 After section 269 insert—

**“Appeals suggesting certain other courses of action**

- (1) One ground of appeal under section 269 in relation to a demolition order made under section 265 is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (2) The courses of action are—
  - (a) serving an improvement notice under section 11 or 12 of the Housing Act 2004;
  - (b) making a prohibition order under section 20 or 21 of that Act;
  - (c) serving a hazard awareness notice under section 28 or 29 of that Act; or
  - (d) declaring the area in which the premises concerned are situated to be a clearance area in accordance with section 289 of this Act.

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- (3) Subsection (4) applies where—
  - (a) a residential property tribunal is hearing an appeal under section 269 in relation to a demolition order made under section 265; and
  - (b) the grounds on which the appeal is brought are or include the ground that a course of action mentioned in subsection (2) is the best course of action in relation to each hazard concerned.
- (4) The tribunal shall have regard to any guidance given to the local housing authority under section 9 of the Housing Act 2004.
- (5) Subsection (6) applies where—
  - (a) an appeal under section 269 is allowed against a demolition order made under section 265; and
  - (b) the reason or one of the reasons for allowing the appeal is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (6) The tribunal shall, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.
- (7) Subsection (1) of this section is without prejudice to the generality of section 269.”

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

- “(2) If the authority are satisfied that the result of the works will be—
- (a) in the case of a demolition order made under section 265(1) or (2), that the hazard concerned ceases to be a category 1 hazard, or
  - (b) in the case of a demolition order made under section 265(3) or (4), that a prescribed state of affairs exists,
- they may, in order that the person submitting the proposals may have an opportunity of carrying out the works, extend for such period as they may specify the time within which the owner of the premises is required under section 271 to demolish them.
- (3) In subsection (2) “prescribed state of affairs” means such state of affairs as may be specified or described in an order made by the Secretary of State.
  - (4) An order under subsection (3)—
    - (a) may make different provision for different cases or descriptions of case (including different provision for different areas);
    - (b) may contain such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate; and
    - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (5) That time may be further extended by the authority, once or more often as the case may require, if—

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- (a) the works have begun and appear to the authority to be making satisfactory progress, or
  - (b) though they have not begun, the authority think there has been no unreasonable delay.
- (6) Where the authority determine to extend, or further extend, the time within which the owner of any premises is required under section 271 to demolish them, notice of the determination shall be served by the authority on every person having an interest in the premises or part of the premises, whether as freeholder, mortgagee or otherwise.
- (7) If the works are completed to the satisfaction of the authority they shall revoke the demolition order (but without prejudice to any subsequent proceedings under this Part or Part 1 of the Housing Act 2004).”

17 After section 274 insert—

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

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

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

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

(1) If—

- (a) an owner of any premises in respect of which a demolition order has become operative, or
  - (b) any other person who has an interest in the premises,
- submits proposals to the local housing authority for the use of the premises for a purpose other than human habitation, the authority may, if they think fit, determine the demolition order and make a prohibition order under section 20 or 21 of the Housing Act 2004 in respect of the hazard concerned.

(2) The authority shall serve notice that the demolition order has been determined, and a copy of the prohibition order, on every person on whom they are required by Part 1 of Schedule 2 to the Housing Act 2004 to serve a copy of the prohibition order.”

19 (1) Section 289 (declaration of clearance area) is amended as follows.

(2) In subsection (2F)(b) for “are unfit for human habitation” substitute “contain category 1 or category 2 hazards”.

(3) In subsection (3)—

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

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

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

- (1) Where—
  - (a) the local housing authority would be required under section 5 of the Housing Act 2004 to make a demolition order under section 265(1) or (2) of this Act in respect of a dwelling, a house in multiple occupation or a building containing one or more flats, and
  - (b) it appears to them that the dwelling, house in multiple occupation or, as the case may be, building is or can be rendered capable of providing accommodation of a standard which is adequate for the time being,they may purchase it instead.
- (2) Where—
  - (a) the local housing authority would be required under section 5 of the Housing Act 2004 to make a relevant prohibition order in respect of a dwelling, a house in multiple occupation or a building containing one or more flats, and
  - (b) it appears to them that the dwelling, house in multiple occupation or, as the case may be, building is or can be rendered capable of providing accommodation of a standard which is adequate for the time being,they may purchase it instead.
- (3) In subsection (2) “relevant prohibition order” means a prohibition order under section 20 of the Housing Act 2004 which imposes in relation to the whole of the dwelling, house in multiple occupation or building a prohibition on its use for all purposes other than any purpose approved by the authority.
- (4) Where an authority have determined to purchase any premises under subsection (1)—
  - (a) they shall serve a notice of their determination on the persons on whom they would have been required by section 268(1) to serve a copy of a demolition order, and
  - (b) sections 268(4) and 269(1), (2), (3) and (6) (operative date and right of appeal) apply to such a notice as they apply to a demolition order.
- (5) Where an authority have determined to purchase any premises under subsection (2)—
  - (a) they shall serve a notice of their determination on the persons on whom they would have been required by Part 1 of Schedule 2 to the Housing Act 2004 (service of prohibition orders) to serve a copy of the relevant prohibition order; and
  - (b) section 24 of that Act and Parts 1 and 3 of that Schedule (operative date, right of appeal etc.) apply to such a notice as they apply to a prohibition order which is not suspended or to appeals against such an order (as the case may be).
- (6) At any time after the notice has become operative the authority may purchase the dwelling, house in multiple occupation or building by agreement or be authorised by the Secretary of State to purchase it compulsorily.

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(7) This section does not apply where section 304(1) applies (listed building or building protected pending listing).”

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

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

(1) A local housing authority shall not make a demolition order under section 265 (power to make a demolition order) in respect of a listed building.

(2) Where a dwelling, house in multiple occupation or building in respect of which a demolition order has been made becomes a listed building, the local housing authority shall determine the order (whether or not it has become operative).

(3) The local housing authority shall serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a new demolition order in relation to the premises.

(4) The Secretary of State may give notice in respect of a dwelling, house in multiple occupation or building to the local housing authority stating that its architectural or historic interest is sufficient to render it inexpedient that it should be demolished pending determination of the question whether it should be a listed building; and the provisions of this section apply to a dwelling, house in multiple occupation or building in respect of which such a notice is in force as they apply to a listed building.”

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

23 In section 308(3) (approval of owner’s proposals for re-development)—

- (a) after “Part” insert “or Chapter 2 of Part 1 of the Housing Act 2004”; and
- (b) for “, closing or purchase of unfit premises” substitute “or purchase of premises or the prohibition of uses of premises”.

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

25 In section 318(1)(a) (power of court to authorise execution of works on unfit premises or for improvement)—

- (a) for “dwelling-houses” substitute “dwellings”; and
- (b) for “injurious to health or unfit for human habitation” substitute “harmful to health or safety”.

26 For section 322 substitute—

**“Minor definitions**

(1) In this Part the following expressions have the same meaning as in Part 1 of the Housing Act 2004 (see sections 1(5) to (7) and 2(1) of that Act)—

- “building containing one or more flats”,
- “category 1 hazard”,
- “category 2 hazard”,



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“common parts”, in relation to a building containing one or more flats,  
“dwelling”,  
“flat”,  
“hazard”.

(2) In this Part—

“health” includes mental health;

“house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act);

“owner”, in relation to premises—

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

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

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

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

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“building containing one or more flats	section 322”
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“category 1 hazard	section 322”
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“category 2 hazard	section 322”
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“common parts	section 322”
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“dwelling	section 322”
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“hazard	section 322”
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“health	section 322”
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“residential property tribunal                      section 229 of the Housing Act 2004”.

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

29      In section 582 (compulsory purchase orders: restriction on recovery of possession of houses in multiple occupation) for subsection (8) substitute—

“(8) In this section “house in multiple occupation” has the meaning given by sections 254 to 259 of the Housing Act 2004 for the purposes of that Act (other than Part 1).”

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

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

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

(2) The amount referred to in subsection (1) is the diminution in the compulsory purchase value of the owner’s interest in the premises as a result of the coming into operation of the relevant prohibition order or, as the case may be, the making of the demolition order; and that amount—

- (a) shall be determined as at the date of the coming into operation or making of the order in question; and
- (b) shall be determined (in default of agreement) as if it were compensation payable in respect of the compulsory purchase of the interest in question and shall be dealt with accordingly.

(3) In any case where—

- (a) a relevant prohibition order has been made in respect of any premises, and
- (b) that order is revoked and a demolition order is made in its place,

the amount payable to the owner under subsection (1) in connection with the demolition order shall be reduced by the amount (if any) paid to the owner or a previous owner under that subsection in connection with the relevant prohibition order.

(4) For the purposes of this section—

“compulsory purchase value”, in relation to an owner’s interest in premises, means the compensation which would be payable in respect of the compulsory purchase of that interest if it fell to be assessed in accordance with the Land Compensation Act 1961;

“premises”, in relation to a demolition order, has the meaning given by section 322;

“premises”, in relation to a prohibition order, means premises which are specified premises in relation to the order within the meaning of Part 1 of the Housing Act 2004;

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“relevant prohibition order” means a prohibition order under section 20 or 21 of the Housing Act 2004 which imposes in relation to the whole of any premises a prohibition on their use for all purposes other than any purpose approved by the authority.”

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

**“Repayment on revocation of demolition or prohibition order**

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

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

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

(2) In any case where—

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

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

(3) In any case where—

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

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

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

- (a) the amount by which the value of the interest of the recipient in the premises increases as a result of the revocation or variation of the relevant prohibition order; and

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- (b) the amount paid to the recipient under section 584A(1) in respect of his interest in the premises;  
and the amount referred to in paragraph (a) shall be determined as at the date of the revocation or variation of the relevant prohibition order.
- (5) For the purpose of assessing the amount referred to in subsection (4)(a), the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (6) Any dispute as to the amount referred to in subsection (4)(a) shall be referred to and determined by the Lands Tribunal; and section 2 and subsections (1) (a) and (4) to (6) of section 4 of the Land Compensation Act 1961 shall, subject to any necessary modifications, apply for the purposes of this section as they apply for the purposes of that Act.
- (7) In this section “premises” and “relevant prohibition order” have the same meaning as in section 584A.”

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

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

*Housing Act 1988 (c. 50)*

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

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

- 34 In section 100 of the Local Government and Housing Act 1989 (interpretation of Part 7) for the definition of “house in multiple occupation” substitute—  
““house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act), but does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household;”.
- 35 In section 195(2) of that Act (short title, commencement and extent) for “167” substitute “168”.

*Water Industry Act 1991 (c. 56)*

36 For paragraph 2(2) of Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges) substitute—

“(2) In this paragraph “house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act).”

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

37 (1) Section 18 of the Health Service Commissioners Act 1993 (consultation during investigations) is amended as follows.

(2) In subsection (1)—

- (a) omit “or” at the end of paragraph (c);
- (b) at the end of paragraph (d) insert “or
- (e) by the Social Housing Ombudsman for Wales under regulations under section 51B of the Housing Act 1996,”;
- (c) omit “the” after “appropriate Commissioner or”; and
- (d) omit “the” after “that Commissioner or”.

(3) In subsection (2) omit “the Welsh Administration”.

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

38 For paragraph (aa)(i) of the definition of “residential accommodation” in section 1(1) of the Home Energy Conservation Act 1995 (interpretation) substitute—

“(i) in England and Wales, a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act).”

*Gas Act 1995 (c. 45)*

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

*Housing Act 1996 (c. 52)*

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

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

42 In section 54 (determinations requiring approval), at the end of paragraph (b) insert “or

- (c) any determination under section 27B (transfer of property funded by grants under section 27A).”

43 In section 210 (homelessness: suitability of accommodation)—

- (a) for “Parts IX, X and XI” substitute “Parts 9 and 10”; and

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- (b) for “; overcrowding; houses in multiple occupation)” substitute “and overcrowding) and Parts 1 to 4 of the Housing Act 2004”.

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

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

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

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

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

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

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“The Social Housing Ombudsman for Wales	Part 1, Chapter 5 of the Housing Act 1996 (c. 52).”
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*Local Government Act 2003 (c. 26)*

- 47 In section 87 of the Local Government Act 2003 (housing strategies and statements) for subsection (4) substitute—
- “(4) In this section—
- “housing” includes accommodation needs for gypsies and travellers within the meaning of section 225 of the Housing Act 2004;
  - “local housing authority” has the same meaning as in the Housing Act 1985 (c. 68).”

SCHEDULE 16

Section 266

REPEALS

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

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	Section 310.
	In section 311, in subsection (1) the words “or section 310 (owner’s improvements or alterations)” and in subsection (3) the words “or 310, as the case may be”.
	In section 316(1), the words “, or obstructive building order”.
	In section 317, in the sidenote the words “or closed”, and in subsection (1) the words “or closing”.
	Section 318(4).
	In section 319(1)(b), the words “or closing” and “, or an obstructive building order,”.
	In section 323, the entries relating to “closing order”, “fit (or unfit) for human habitation”, “house”, “obstructive building”, “obstructive building order” and “unfit (or fit) for human habitation”.
	Sections 345 to 400.
	Section 439(1) and (2).
	Sections 604 to 606.
	In section 623(1), the words “and “flat”, except in the expression “flat in multiple occupation”,” and the definitions of “house in multiple occupation” and “flat in multiple occupation”.
	In section 624, the entries relating to “flat”, “flat in multiple occupation” and “house in multiple occupation”.
	Schedule 10.
	Schedule 13.
Housing Associations Act 1985 (c. 69)	In section 87, in subsection (3) the words from “, acting” onwards, and subsection (6).
Housing (Consequential Provisions) Act 1985 (c. 71)	In Schedule 2, paragraph 24(2)(d).
Leicestershire Act 1985 (c. xvii)	Section 54(6)(a).
Airports Act 1986 (c. 31)	In Schedule 2, in the entry relating to the Housing Act 1985 in paragraph 1(1), “283,”.
Housing Act 1988 (c. 50)	In section 50(2), the words from “, acting” onwards.



*Status: This is the original version (as it was originally enacted).*

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 52(2), the words from “, acting” to “determine,”.
	Section 55.
	In section 57(a), “or 55”.
	Section 130.
	Schedule 15.
Electricity Act 1989 (c. 29)	In Schedule 16, paragraph 1(1)(xl).
Local Government and Housing Act 1989 (c. 42)	In section 165(1), paragraphs (a) and (c). Section 167. In Schedule 9, paragraphs 1 to 14, 16, 17(2) and (4), 20(2) and (3), 21 to 23, 25(1), 29, 32, 33(1), 36, 42, 43(b), 44 to 71, 75, 83, 84 and 86.
Health Service Commissioners Act 1993 (c. 46)	In section 18, in subsection (1), the “or” at the end of paragraph (c), the “the” after “appropriate Commissioner or” and the “the” after “that Commissioner or”, and in subsection (2) the words “the Welsh Administration”.
Housing Act 1996 (c. 52)	In section 18(2), the words from “, acting” to “determine,”. In section 20(3), the words from “, acting” to “determine,”. In section 21(3), the words from “, acting” to “determine,”. Sections 65 to 79. In Schedule 1, paragraph 16(4), in paragraph 18(1) the words from “(which impose” onwards, and in paragraph 19(2) paragraph (d) (but not the “or” at the end).
Housing Grants, Construction and Regeneration Act 1996 (c. 53)	Section 24(4). In section 58, the definition of “qualifying park home”. In section 59, the entries relating to “fit for human habitation” and “qualifying park home”. Sections 81 to 91. Section 97. In Schedule 1, paragraph 10.

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*Status: This is the original version (as it was originally enacted).*

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Government of Wales Act 1998 (c. 38)	In Schedule 9, in paragraph 27(1) the “or” at the end of paragraph (b).
Transport Act 2000 (c. 38)	In Schedule 5, in paragraph 1(2)(o), “283,”.