

SCHEDULES

SCHEDULE 13

Sections 384, 386, 389, 393 and 394.

FURTHER PROVISIONS RELATING TO CONTROL ORDERS UNDER PART XI

PART I

MANAGEMENT SCHEMES

Contents of management scheme.

- 1 (1) The scheme shall give particulars of all works which, in the opinion of the local housing authority, they would, if a control order were not in force, have required to be carried out under any provision of this Part, or under any other enactment relating to housing or public health, and which, in their opinion, constitute works of capital expenditure.
- (2) The scheme shall include an estimate of the costs of carrying out the works of which particulars are given in the scheme.
- (3) The scheme shall specify what, in the opinion of the authority, is the highest number of individuals or households who should live in the house from time to time, having regard to—
- (a) the considerations set out in section 352(1) (matters relevant to fitness of house for number of occupants), and
 - (b) the existing condition of the house and its future condition as the works progress which the authority carry out in the house.
- (4) The scheme shall include an estimate of the balance which will from time to time accrue to the authority after deducting from the rent or other payments received by the authority from persons occupying the house—
- (a) the compensation payable by the authority to the dispossessed proprietor under section 389 and Part II of this Schedule, and
 - (b) all expenditure, other than that of which particulars are given under subparagraph (2), incurred by the authority in respect of the house while the control order is in force.

The estimate in the scheme of surpluses on revenue account.

- 2 (1) References in this Schedule to the surpluses on revenue account as settled by the scheme are to the amount included in the scheme by way of an estimate under paragraph 1(4), subject to any variation of the scheme made by the local housing authority or on an appeal or application to the court.

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- (2) In paragraph 1(4), and elsewhere in this Schedule, “rent or other payments”, in relation to payments received by the local housing authority from persons occupying a house subject to a control order, means rent or other payments so received—
- (a) under leases or licences, or
 - (b) in respect of furniture to which section 383(1) applies (furniture comprised in furnished letting of which right to possession vests in authority).
- (3) In paragraph 1(4), and elsewhere in this Schedule, references to expenditure incurred by the local housing authority in respect of a house subject to a control order include, in a case where the authority—
- (a) require persons living in the house to vacate their accommodation for a period while the authority are carrying out works in the house, and
 - (b) provide housing accommodation for those persons for any part of that period or defray all or any part of the expenses incurred by or on behalf of those persons removing from and returning to the house,
- the net cost to the authority in so providing housing accommodation and the sums so defrayed by the authority.

Appeal against scheme.

- 3 (1) A person having an estate or interest in a house to which a control order relates may, within six weeks from the date on which a management scheme relating to the house was served in accordance with section 386, or such longer period as the local housing authority may in writing allow, appeal to the county court against the scheme.
- (2) The appeal may be on any of the following grounds—
- (a) that, having regard to the condition of the house and to the other circumstances, any of the works of which particulars are given in the scheme (whether already carried out or not) are unreasonable in character or extent, or are unnecessary;
 - (b) that any of the works do not involve expenditure which ought to be regarded as capital expenditure;
 - (c) that the number of individuals or households living in the house, as specified by the local housing authority in the scheme, is unreasonably low;
 - (d) that the estimate of the surpluses on revenue account in the scheme is unduly low on account of assumptions made by the authority as to matters within their control (for example, as to the rents charged by them).
- (3) On an appeal the court may, as it thinks fit, confirm or vary the scheme.
- (4) Proceedings on an appeal against a scheme shall, so far as practicable, be combined with proceedings on any appeal under section 384 against the control order itself; and if on such an appeal the court decides to revoke the control order, the court shall not proceed with any appeal against the scheme.

Expenditure on works to be set against surpluses on revenue account.

- 4 (1) An account shall be kept by the local housing authority for the period during which the control order is in force showing—
- (a) the surpluses on revenue account as settled by the scheme, and
 - (b) the expenditure incurred by the authority in carrying out works of which particulars were given in the scheme;

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and balances shall be struck in the account at half-yearly intervals so as to ascertain the amount of that expenditure which cannot be set off against those surpluses.

- (2) So far as, at the end of a half-yearly period, the expenditure is not so set off, it shall carry interest, at such reasonable rate as the authority may determine, until it is so set off or until the charge arising under paragraph 16 of this Schedule (recovery of expenditure when control order ceases to have effect) is satisfied.
- (3) So far as there is a sum out of the surpluses on revenue account not required to meet expenditure incurred by the authority, it shall go to meet interest under subparagraph (2).

Variation or review of surpluses on revenue account as settled by the scheme.

- 5 The local housing authority may at any time vary a scheme in such a way as to increase the amount of the surpluses on revenue account as settled by the scheme for all or any periods, including past periods.
- 6 (1) The local housing authority, or a person having an estate or interest in the house, may at any time apply to the county court for a review of the surpluses on revenue account as settled by the scheme.
- (2) On such an application the court shall take into consideration—
- (a) whether in the period since the control order came into force the actual balances mentioned in paragraph 1(4) have exceeded, or been less than, the surpluses on revenue account as settled by the scheme, and
- (b) whether there has been any change in circumstances such that the number of persons or households who should live in the house, or the amount of the rents and other payments receivable by the local housing authority from persons occupying the house, ought to be greater or less than was originally estimated.
- (3) The court may on such an application, as it thinks fit, confirm or vary the scheme (but not so as to affect the provisions of the scheme relating to the works), and may vary the surpluses on revenue account as settled by the scheme for all or any period, including past periods.

PART II

COMPENSATION PAYABLE TO DISPOSSESSED PROPRIETOR

Rate of compensation.

- 7 The compensation payable by the local housing authority to the dispossessed proprietor in pursuance of section 389(1)(a) shall be at an annual rate equal to one half of the gross value of the house multiplied by the appropriate multiplier.

Ascertainment of gross value of house.

- 8 Subject to the following provisions, the gross value of a house for the purposes of this Part of this Schedule is its gross value for rating purposes as shown in the valuation list on the date when the control order comes into force.

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- 9 (1) If the house forms part only of a hereditament, the gross value of the house is such proportion of the gross value shown in the valuation list for that hereditament as may be agreed in writing between the local housing authority and the person claiming compensation.
- (2) If any dispute arises under sub-paragraph (1), the authority or the person claiming compensation may by means of a reference in writing submit the dispute for decision by the district valuer.
- 10 If the house consists or forms part of more than one hereditament, the gross value shall be ascertained by determining the gross value of each hereditament or part as if it were a separate house and aggregating the gross values so determined.
- 11 (1) The gross value of a hereditament whose rateable value is by virtue of subsection (1) of section 19 of the General Rate Act 1967 to be taken to be its net annual value ascertained in accordance with subsections (2) to (4) of that section shall be taken to be its corresponding gross value, that is to say, the gross value which would be equivalent to the net annual value shown in the valuation list if there were deducted any amounts which by virtue of an order made or falling to be treated as made under section 19(2) of the General Rate Act 1967 would be deducted from the gross value of the hereditament if it had been required to be assessed to its gross value instead of its net annual value.
- (2) If more than one value is so ascertained to be the corresponding gross value, the highest value so ascertained shall be taken.
- 12 Where after the date on which the control order comes into force—
- (a) the valuation list is altered so as to vary the gross value (or where paragraph 11 applies the net annual value) of the house or of the hereditament of which the house forms part, and
 - (b) the alteration has effect from a date before, or from the same date as, the control order came into force,
- compensation is payable as if the value shown in the list on the date when the control order came into force had been that shown in the list as altered.

The appropriate multiplier.

- 13 (1) The appropriate multiplier for the purposes of this Part of this Schedule is that specified by order of the Secretary of State.
- (2) An order 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.

Apportionment of compensation between proprietors of different parts of house.

- 14 (1) If different persons are the dispossessed proprietors of different parts of the house, the compensation payable shall be apportioned between them according to the proportions of the gross value of the house properly attributable to the parts of the house in which they are respectively interested.
- (2) If they do not agree on the apportionment they shall refer the matter, in writing, for determination by the district valuer.

PART III

CESSATION OF CONTROL ORDER

General consequences of cessation of control order.

- 15 (1) On and after the date on which a control order ceases to have effect—
- (a) a lease, licence or agreement in which the local housing authority were substituted for another party by virtue of section 382 (effect of order on persons occupying house) has effect with the substitution of the original party, or his successor in title, for the authority,
 - (b) an agreement in the nature of a lease or licence created by the local housing authority has effect with the substitution of the dispossessed proprietor for the authority.
- (2) If the dispossessed proprietor is a lessee, nothing in a superior lease imposes liability on him, or on a superior lessee, in respect of anything done in pursuance of the terms of an agreement in which the dispossessed proprietor is substituted for the local housing authority by virtue of this paragraph.
- (3) This paragraph applies in all circumstances in which a control order ceases to have effect.
- 16 (1) When a control order ceases to have effect, a final balance shall be struck in the account mentioned in paragraph 4(1) and the expenditure reasonably incurred by the local housing authority in carrying out works of which particulars were given in the management scheme, together with interest at such reasonable rate as the authority may determine is, so far as not set off against the surpluses on revenue account as settled by the scheme, a charge on the premises.
- (2) The premises subject to the charge include any part of the premises excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (3) The local housing authority have for the purposes of enforcing the charge all the same powers and remedies, under the Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrender of leases and of appointing a receiver.
- (4) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.
- (5) References in this paragraph to the provisions of the management scheme include reference to the provisions as varied; and if, when the control order ceases to have effect, proceedings are pending which may result in a variation of the scheme—
- (a) those proceedings may be continued until finally determined, and
 - (b) if the charge under this paragraph is enforced before the final determination of those proceedings, the local housing authority shall account for any money recovered by enforcing the charge which, having regard to the decision in the proceedings as finally determined, they ought not to have recovered.
- (6) This paragraph does not apply—
- (a) where a control order is revoked by the county court on an appeal against the order, or

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(b) where a control order ceases to have effect under Part IV of this Schedule (control order followed by compulsory purchase order),
but applies in every other case where a control order ceases to have effect (including the case where the order is revoked by a court on appeal from the county court).

Revocation of order by county court on appeal against making of order.

- 17 (1) The provisions of this paragraph apply where a control order is revoked by the county court on an appeal against the control order.
- (2) The court shall take into consideration whether the state or condition of the house is such that action ought to be taken by the local housing authority under any other provision of this Part, and shall approve the taking of any of the following steps accordingly, that is—
- (a) the serving of a notice under section 352, 366 or 372 (notices requiring the execution of works),
 - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
 - (c) the making of an order under section 370 (order applying management code to house);
- and no appeal lies against a notice or order so approved.
- (3) If the local housing authority are in the course of carrying out works in the house which, if a control order were not in force, the authority would have power to require some other person to carry out under any provision of this Part or under any other enactment relating to housing or public health, and on the hearing of the appeal the court is satisfied that the carrying out of the works could not be postponed until after the determination of the appeal by the county court because the works were urgently required for the sake of the safety, welfare or health of persons living in the house, or of other persons, the court may suspend the revocation of the control order until the works have been completed.
- (4) The county court shall fix the date on which the control order is to be revoked without regard to whether an appeal has been or may be brought against the decision of the county court; but that does not prevent the local housing authority from bringing such an appeal.
- (5) The court may authorise the local housing authority to create under section 381(1)(c) (power to create interests akin to leases) interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding section 381(2), are for a fixed term exceeding one month or are terminable by notice to quit (or an equivalent notice) of more than four weeks.
- 18 (1) If a control order is revoked by the county court on an appeal against the order, the local housing authority shall pay to the dispossessed proprietor the balances, which from time to time accrued to the authority after deducting from the rent or other payments received by the authority from persons occupying the house—
- (a) the compensation payable by the authority to the dispossessed proprietor, and
 - (b) all expenditure (other than capital expenditure) incurred by the authority in respect of the house while the control order was in force.

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- (2) If the court is satisfied that the balances which the local housing authority are under sub-paragraph (1) liable to pay to the dispossessed proprietor are unduly low for any reason within the control of the authority, having regard to—
 - (a) the desirability of observing the standards of management contained in regulations made under section 369 (the management code), and
 - (b) the other standards which the authority ought to observe as to the number of persons living in the house and the rents which they ought to charge,the court shall direct that, for the purposes of the authority's liability to the dispossessed proprietor under this paragraph, the balances under sub-paragraph (1) shall be deemed to be such greater sums as the court may direct.
 - (3) The court shall not under sub-paragraph (2) give a direction which will afford to the dispossessed proprietor a sum greater than what he may, in the opinion of the court, have lost by the making of the control order.
 - (4) If different persons are dispossessed proprietors of different parts of the house, sums payable under this paragraph by the local housing authority shall be apportioned between them in the manner provided by paragraph 14.
- 19
 - (1) The provisions of this paragraph have effect for the purpose of enabling the local housing authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order is revoked on an appeal against the order.
 - (2) On the hearing of the appeal the authority may apply to the court for the approval of those works on the ground that—
 - (a) they were works which, if a control order had not been in force, the authority could have required some person to carry out under any provision of this Part or under any other enactment relating to housing or public health, and
 - (b) the works could not be postponed until after the determination of the appeal by the county court because they were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons.
 - (3) Expenditure reasonably incurred by the authority in carrying out works so approved—
 - (a) may be deducted by the authority out of the balances which they are liable to pay to the dispossessed proprietor under paragraph 18, and
 - (b) so far as not so deducted, is a charge on the premises and on all estates and interests in the premises;
and the premises subject to the charge include any part of the premises which was excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
 - (4) The charge takes effect as from the date when the control order is revoked and the expenditure so charged carries interest from that date at such reasonable rate as the authority may determine.
 - (5) The local housing authority have for the purposes of enforcing the charge all the same powers and remedies, under the Law of Property Act 1925 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.
 - (6) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.

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Revocation of control order on further appeal.

- 20 (1) If on an appeal from a decision of the county court confirming a control order it is determined that the control order should be revoked, but the local housing authority satisfy the court hearing the appeal—
- (a) that they are in the course of carrying out works in the house which, if a control order were not in force, they would have power to require some person to carry out under any provision of this Part of this Act or under any other enactment relating to housing or public health, and
 - (b) that the carrying out of the works could not be postponed until the time when the control order could no longer be revoked by order of any court on an appeal against the order because the works were urgently required for the sake of safety, welfare or health of persons living in the house, or other persons,
- the court may suspend the revocation of the control order until the works have been completed.
- (2) If on the hearing by the county court of an appeal against a control order the appellant indicates—
- (a) that an appeal may be brought against any decision of the county court confirming the order, and
 - (b) that certain works ought not, unless the control order is confirmed on the further appeal, to be works the cost of which can be recovered by the local housing authority under paragraph 4 or 16,
- the county court may direct that those works shall not be works of which the cost may be so recovered if they are begun before the time when the further appeal is finally determined and the control order is not confirmed on that appeal.

Revocation of control order by county court on appeal against refusal to revoke.

- 21 (1) The provisions of this paragraph apply where a control order is revoked by the county court on an appeal under section 393 (appeal against refusal of local housing authority to revoke order).
- (2) If the local housing authority represent to the court that revocation of the control order would unreasonably delay completion of works of which particulars were given in the management scheme, and which the authority have begun to carry out the court shall take the representations into account and may, if it thinks fit, revoke the control order as from the time when the works are completed.
- (3) The court may make an order under which the revocation does not take effect until the time for appealing against the decision of the county court has expired and any appeal brought within that time has been finally determined.
- (4) The court may approve the taking of any of the following steps, to take effect on the revocation of the control order, that is—
- (a) the serving of a notice under section 352, 366 or 372 (notices requiring the execution of works),
 - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
 - (c) the making of an order under section 370 (order applying management code to house);
- and no appeal lies against a notice or order so approved.

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- (5) Where the house will on the revocation of the control order be charged with any sum in favour of the local housing authority by virtue of any provision of this Schedule, the court may make it a condition of the revocation of the order that the appellant first pays off to the authority that sum or such part of that sum as the court may specify.
- (6) The court may authorise the local housing authority to create under section 381(1)(c) (power to create interests akin to leases) interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding section 381(2), are for a fixed term exceeding one month or are terminable by notice to quit (or an equivalent notice of more than four weeks).

PART IV

CONTROL ORDER FOLLOWED BY COMPULSORY PURCHASE ORDER

Introductory.

- 22 The provisions of this Part of this Schedule apply where the local housing authority make a control order with respect to a house and within 28 days of the making of that order make a compulsory purchase order for the acquisition of the house under Part II of this Act (provision of housing accommodation).

Preparation and service of management scheme.

- 23 (1) The local housing authority need not prepare or serve a management scheme under section 386 until they are notified by the Secretary of State of his decision to confirm or not to confirm the compulsory purchase order.
- (2) The time within which copies of the scheme are to be served under section 386 is—
- (a) if the Secretary of State’s decision is not to confirm the compulsory purchase order, eight weeks from the date on which that decision is notified to the authority;
 - (b) if the Secretary of State’s decision is to confirm the compulsory purchase order, eight weeks from the time at which the compulsory purchase order becomes operative.

Control order ceases to have effect on acquisition of house.

- 24 Where the compulsory purchase order is confirmed by the Secretary of State, the control order ceases to have effect—
- (a) if the local housing authority enter into a contract to purchase the house, on the date when the contract is made;
 - (b) if the local housing authority, in pursuance of a notice served under section 11 of the Compulsory Purchase Act 1965, enter and take possession of the house or serve a notice under section 583 of this Act (power to take possession without displacing tenant), on the date when the notice under section 11 is served.

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Balances payable to dispossessed proprietor.

- 25 (1) Where a control order ceases to have effect by virtue of paragraph 24, the local housing authority shall pay to the dispossessed proprietor the balance which from time to time accrued to the authority after deducting from the rent or other payments received by them from persons occupying the house—
- (a) the compensation payable to him by the authority, and
 - (b) all expenditure (other than capital expenditure) incurred by the authority in respect of the house while the control order was in force.
- (2) The local housing authority shall give notice to the dispossessed proprietor informing him of the balances which they propose to pay him under this paragraph and of his right to appeal.
- (3) The dispossessed proprietor may, within 21 days of the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (4) If on such an appeal the court is of opinion that the balances are unduly low for any reason within the control of the local housing authority, having regard to—
- (a) the desirability of observing the standards of management contained in regulations made under section 369 (the management code), and
 - (b) the other standards which the authority ought to observe as to the number of persons living in the house and the rents which they ought to charge,
- the court shall direct that for the purposes of the authority's liability to the dispossessed proprietor under this paragraph the balances shall be deemed to be such greater amount as the court may direct.
- (5) The court shall not under sub-paragraph (4) give a direction which will afford to the dispossessed proprietor a sum greater than the amount which, in the opinion of the court, he may have lost by the making of the control order.
- (6) If different persons are dispossessed proprietors of different parts of the house, sums payable under this paragraph shall be apportioned between them in the manner provided by paragraph 14.

Recovery of capital expenditure incurred by local housing authority.

- 26 (1) The provisions of this paragraph have effect for the purpose of enabling the local housing authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order ceases to have effect.
- (2) The local housing authority may, by a notice served on the dispossessed proprietor, specify such works as being works—
- (a) which the authority could, if the control order were not in force, have required some person to carry out under any provision of this Part of this Act or under any other enactment relating to housing or public health, and
 - (b) which could not be postponed because they were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons;
- and such a notice shall inform the dispossessed proprietor of his right to appeal.

- (3) The dispossessed proprietor may, within 21 days of the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court which may confirm, vary or quash the notice.
- (4) Expenditure reasonably incurred by the local housing authority in carrying out the works specified in a notice under this paragraph (or specified in such a notice as varied on appeal) may be deducted by the authority from the balances which they are liable to pay to the dispossessed proprietor under paragraph 25.
- (5) So far as that expenditure exceeds those balances, it may, if the house is purchased compulsorily, be deducted from the amount payable as compensation, and accordingly any interest payable on that amount shall be calculated after allowing for the deduction.