

SCHEDULES

SCHEDULE 7

FURTHER PROVISIONS REGARDING EMPTY DWELLING MANAGEMENT ORDERS

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.
- (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).

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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

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(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
 - (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.

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- (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)).