



Housing Act 2004

2004 CHAPTER 34

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

CHAPTER 2

INTERIM AND FINAL EMPTY DWELLING MANAGEMENT ORDERS

Interim empty dwelling management orders

133 Making of interim EDMOs

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

“Wholly unoccupied” means that no part is occupied, whether lawfully or unlawfully.
- (3) Before determining whether to make an application to a residential property tribunal for an authorisation under section 134, the authority must make reasonable efforts—
 - (a) to notify the relevant proprietor that they are considering making an interim EDMO in respect of the dwelling under this section, and
 - (b) to ascertain what steps (if any) he is taking, or is intending to take, to secure that the dwelling is occupied.

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

134 Authorisation to make interim EDMOs

- (1) A residential property tribunal may authorise a local housing authority to make an interim EDMO in respect of a dwelling to which section 133 applies if the tribunal—
 - (a) is satisfied as to the matters mentioned in subsection (2), and
 - (b) is not satisfied that the case falls within one of the prescribed exceptions.
- (2) The matters as to which the tribunal must be satisfied are—
 - (a) that the dwelling has been wholly unoccupied for at least 6 months or such longer period as may be prescribed,
 - (b) that there is no reasonable prospect that the dwelling will become occupied in the near future,
 - (c) that, if an interim order is made, there is a reasonable prospect that the dwelling will become occupied,
 - (d) that the authority have complied with section 133(3), and
 - (e) that any prescribed requirements have been complied with.
- (3) In deciding whether to authorise a local housing authority to make an interim EDMO in respect of a dwelling, the tribunal must take into account—
 - (a) the interests of the community, and

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

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

- (1) A local housing authority who have made an interim EDMO in respect of a dwelling must comply with the following provisions as soon as practicable after the order has come into force (see paragraph 1 of Schedule 7).
- (2) The authority must take such steps as they consider appropriate for the purpose of securing that the dwelling becomes and continues to be occupied.
- (3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the dwelling pending—
- (a) the making of a final EDMO in respect of the dwelling under section 136, or
 - (b) the revocation of the interim EDMO.
- (4) If the local housing authority conclude that there are no steps which they could appropriately take under the order for the purpose of securing that the dwelling becomes occupied, the authority must either—

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- (a) make a final EDMO in respect of the dwelling under section 136, or
 - (b) revoke the order under paragraph 7 of Schedule 7 without taking any further action.
- (5) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the dwelling against destruction or damage by fire or other causes.