Housing Act 2004

CHAPTER 34

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

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Housing Act 2004

CHAPTER 34

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Housing Act 2004

2004 CHAPTER 34

An Act to make provision about housing conditions; to regulate houses in multiple occupation and certain other residential accommodation; to make provision for home information packs in connection with the sale of residential properties; to make provision about secure tenants and the right to buy; to make provision about mobile homes and the accommodation needs of gypsies and travellers; to make other provision about housing; and for connected purposes. [18th November 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

HOUSING CONDITIONS

CHAPTER 1

ENFORCEMENT OF HOUSING STANDARDS: GENERAL

New system for assessing housing conditions

1 New system for assessing housing conditions and enforcing housing standards

(1) This Part provides—
  (a) for a new system of assessing the condition of residential premises, and
  (b) for that system to be used in the enforcement of housing standards in relation to such premises.

(2) The new system—

(a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and

(b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).

(3) The kinds of enforcement action which are to involve the use of the new system are—

(a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),

(b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and

(c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).

(4) In this Part "residential premises" means—

(a) a dwelling;

(b) an HMO;

(c) unoccupied HMO accommodation;

(d) any common parts of a building containing one or more flats.

(5) In this Part—

"building containing one or more flats" does not include an HMO;

"common parts", in relation to a building containing one or more flats, includes—

(a) the structure and exterior of the building, and

(b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;

"external common parts", in relation to a building containing one or more flats, means common parts of the building which are outside it;

"flat" means a separate set of premises (whether or not on the same floor)—

(a) which forms part of a building,

(b) which is constructed or adapted for use for the purposes of a dwelling, and

(c) either the whole or a material part of which lies above or below some other part of the building;

"HMO" means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);

"unoccupied HMO accommodation" means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.

(6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).

(7) The following indicates how this Part applies to flats—

(a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and

(b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).

(8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

2 Meaning of "category 1 hazard" and "category 2 hazard"

(1) In this Act—

"category 1 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

"category 2 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and

"hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)—

"prescribed" means prescribed by regulations made by the appropriate national authority (see section 261(1)); and

"prescribed band" means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section—

"building" includes part of a building;

"harm" includes temporary harm.

(5) In this Act "health" includes mental health.

Procedure for assessing housing conditions

3 Local housing authorities to review housing conditions in their districts

(1) A local housing authority must keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under any of the provisions mentioned in subsection (2).

(2) The provisions are—

(a) the following provisions of this Act—

(i) this Part,

(ii) Part 2 (licensing of HMOs),
(iii) Part 3 (selective licensing of other houses), and
(iv) Chapters 1 and 2 of Part 4 (management orders);

(b) Part 9 of the Housing Act 1985 (c. 68) (demolition orders and slum clearance);

(c) Part 7 of the Local Government and Housing Act 1989 (c. 42) (renewal areas); and

(d) article 3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860).

(3) For the purpose of carrying out their duty under subsection (1) a local housing authority and their officers must—

(a) comply with any directions that may be given by the appropriate national authority, and

(b) keep such records, and supply the appropriate national authority with such information, as that authority may specify.

4 Inspections by local housing authorities to see whether category 1 or 2 hazards exist

(1) If a local housing authority consider—

(a) as a result of any matters of which they have become aware in carrying out their duty under section 3, or

(b) for any other reason,

that it would be appropriate for any residential premises in their district to be inspected with a view to determining whether any category 1 or 2 hazard exists on those premises, the authority must arrange for such an inspection to be carried out.

(2) If an official complaint about the condition of any residential premises in the district of a local housing authority is made to the proper officer of the authority, and the circumstances complained of indicate—

(a) that any category 1 or category 2 hazard may exist on those premises, or

(b) that an area in the district should be dealt with as a clearance area,

the proper officer must inspect the premises or area.

(3) In this section "an official complaint" means a complaint in writing made by—

(a) a justice of the peace having jurisdiction in any part of the district, or

(b) the parish or community council for a parish or community within the district.

(4) An inspection of any premises under subsection (1) or (2)—

(a) is to be carried out in accordance with regulations made by the appropriate national authority; and

(b) is to extend to so much of the premises as the local housing authority or proper officer (as the case may be) consider appropriate in the circumstances having regard to any applicable provisions of the regulations.

(5) Regulations under subsection (4) may in particular make provision about—

(a) the manner in which, and the extent to which, premises are to be inspected under subsection (1) or (2), and

(b) the manner in which the assessment of hazards is to be carried out.

(6) Where an inspection under subsection (2) has been carried out and the proper officer of a local housing authority is of the opinion—
  (a) that a category 1 or 2 hazard exists on any residential premises in the authority's district, or
  (b) that an area in their district should be dealt with as a clearance area,
the officer must, without delay, make a report in writing to the authority which sets out his opinion together with the facts of the case.

(7) The authority must consider any report made to them under subsection (6) as soon as possible.

Enforcement of housing standards

5 Category 1 hazards: general duty to take enforcement action

(1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.

(2) In subsection (1) "the appropriate enforcement action" means whichever of the following courses of action is indicated by subsection (3) or (4)—
  (a) serving an improvement notice under section 11;
  (b) making a prohibition order under section 20;
  (c) serving a hazard awareness notice under section 28;
  (d) taking emergency remedial action under section 40;
  (e) making an emergency prohibition order under section 43;
  (f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
  (g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

(3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.

(4) If two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.

(5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard—
  (a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or
  (b) another such course of action, where the first course of action is that mentioned in subsection (2)(g) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.

(6) To determine whether a course of action mentioned in any of paragraphs (a) to (g) of subsection (2) is "available" to the authority in relation to the hazard, see the provision mentioned in that paragraph.

(7) Section 6 applies for the purposes of this section.

6 Category 1 hazards: how duty under section 5 operates in certain cases

(1) This section explains the effect of provisions contained in subsection (2) of section 5.

(2) In the case of paragraph (b) or (f) of that subsection, the reference to making an order such as is mentioned in that paragraph is to be read as a reference to making instead a determination under section 300(1) or (2) of the Housing Act 1985 (c. 68) (power to purchase for temporary housing use) in a case where the authority consider the latter course of action to be the better alternative in the circumstances.

(3) In the case of paragraph (d) of that subsection, the authority may regard the taking of emergency remedial action under section 40 followed by the service of an improvement notice under section 11 as a single course of action.

(4) In the case of paragraph (e) of that subsection, the authority may regard the making of an emergency prohibition order under section 43 followed by the service of a prohibition order under section 20 as a single course of action.

(5) In the case of paragraph (g) of that subsection—

(a) any duty to take the course of action mentioned in that paragraph is subject to the operation of subsections (2B) to (4) and (5B) of section 289 of the Housing Act 1985 (procedural and other restrictions relating to slum clearance declarations); and

(b) that paragraph does not apply in a case where the authority have already declared the area in which the premises concerned are situated to be a clearance area in accordance with section 289, but the premises have been excluded by virtue of section 289(2F)(b).

7 Category 2 hazards: powers to take enforcement action

(1) The provisions mentioned in subsection (2) confer power on a local housing authority to take particular kinds of enforcement action in cases where they consider that a category 2 hazard exists on residential premises.

(2) The provisions are—

(a) section 12 (power to serve an improvement notice),

(b) section 21 (power to make a prohibition order),

(c) section 29 (power to serve a hazard awareness notice),

(d) section 265(3) and (4) of the Housing Act 1985 (power to make a demolition order), and

(e) section 289(2ZB) of that Act (power to make a slum clearance declaration).

(3) The taking by the authority of one of those kinds of enforcement action in relation to a particular category 2 hazard does not prevent them from taking either—

(a) the same kind of action again, or

(b) a different kind of enforcement action,

in relation to the hazard, where they consider that the action taken by them so far has not proved satisfactory.

8 Reasons for decision to take enforcement action

(1) This section applies where a local housing authority decide to take one of the kinds of enforcement action mentioned in section 5(2) or 7(2) ("the relevant action").

(2) The authority must prepare a statement of the reasons for their decision to take the relevant action.

(3) Those reasons must include the reasons why the authority decided to take the relevant action rather than any other kind (or kinds) of enforcement action available to them under the provisions mentioned in section 5(2) or 7(2).

(4) A copy of the statement prepared under subsection (2) must accompany every notice, copy of a notice, or copy of an order which is served in accordance with—

(a) Part 1 of Schedule 1 to this Act (service of improvement notices etc.),

(b) Part 1 of Schedule 2 to this Act (service of copies of prohibition orders etc.), or

(c) section 268 of the Housing Act 1985 (service of copies of demolition orders),

in or in connection with the taking of the relevant action.

(5) In subsection (4)—

(a) the reference to Part 1 of Schedule 1 to this Act includes a reference to that Part as applied by section 28(7) or 29(7) (hazard awareness notices) or to section 40(7) (emergency remedial action); and

(b) the reference to Part 1 of Schedule 2 to this Act includes a reference to that Part as applied by section 43(4) (emergency prohibition orders).

(6) If the relevant action consists of declaring an area to be a clearance area, the statement prepared under subsection (2) must be published—

(a) as soon as possible after the relevant resolution is passed under section 289 of the Housing Act 1985, and

(b) in such manner as the authority consider appropriate.

9 Guidance about inspections and enforcement action

(1) The appropriate national authority may give guidance to local housing authorities about exercising—

(a) their functions under this Chapter in relation to the inspection of premises and the assessment of hazards,

(b) their functions under Chapter 2 of this Part in relation to improvement notices, prohibition orders or hazard awareness notices,

(c) their functions under Chapter 3 in relation to emergency remedial action and emergency prohibition orders, or

(d) their functions under Part 9 of the Housing Act 1985 (c. 68) in relation to demolition orders and slum clearance.

(2) A local housing authority must have regard to any guidance for the time being given under this section.

(3) The appropriate national authority may give different guidance for different cases or descriptions of case or different purposes (including different guidance to different descriptions of local housing authority or to local housing authorities in different areas).

(4) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.

(5) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).

(6) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (5), either House resolves that the guidance or alterations be withdrawn.

(7) Subsection (6) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.

(8) In calculating the period of 40 days mentioned in subsection (5), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

10 Consultation with fire and rescue authorities in certain cases

(1) This section applies where a local housing authority—
  (a) are satisfied that a prescribed fire hazard exists in an HMO or in any common parts of a building containing one or more flats, and
  (b) intend to take in relation to the hazard one of the kinds of enforcement action mentioned in section 5(2) or section 7(2).

(2) Before taking the enforcement action in question, the authority must consult the fire and rescue authority for the area in which the HMO or building is situated.

(3) In the case of any proposed emergency measures, the authority's duty under subsection (2) is a duty to consult that fire and rescue authority so far as it is practicable to do so before taking those measures.

(4) In this section—
  "emergency measures" means emergency remedial action under section 40 or an emergency prohibition order under section 43;
  "fire and rescue authority" means a fire and rescue authority under the Fire and Rescue Services Act 2004 (c. 21);
  "prescribed fire hazard" means a category 1 or 2 hazard which is prescribed as a fire hazard for the purposes of this section by regulations under section 2.

CHAPTER 2

IMPROVEMENT NOTICES, PROHIBITION ORDERS AND HAZARD AWARENESS NOTICES

Improvement notices

11 Improvement notices relating to category 1 hazards: duty of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.

(3) The notice may require remedial action to be taken in relation to the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;

(b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) The remedial action required to be taken by the notice —

(a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but

(b) may extend beyond such action.

(6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(7) The operation of an improvement notice under this section may be suspended in accordance with section 14.

(8) In this Part "remedial action", in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

12 Improvement notices relating to category 2 hazards: power of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve an improvement notice under this section in respect of the hazard.

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 13.

(3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.

(4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.

(6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

13 Contents of improvement notices

(1) An improvement notice under section 11 or 12 must comply with the following provisions of this section.

(2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) whether the notice is served under section 11 or 12,

(b) the nature of the hazard and the residential premises on which it exists,

(c) the deficiency giving rise to the hazard,

(d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,

(e) the date when the remedial action is to be started (see subsection (3)), and

(f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.

(3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.

(4) The notice must contain information about—

(a) the right of appeal against the decision under Part 3 of Schedule 1, and

(b) the period within which an appeal may be made.

(5) In this Part of this Act "specified premises", in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

14 Suspension of improvement notices

(1) An improvement notice may provide for the operation of the notice to be suspended until a time, or the occurrence of an event, specified in the notice.

(2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.

(3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from the person on whom the notice is served.

(4) In subsection (3) a "notified breach", in relation to such an undertaking, means an act or omission by the person on whom the notice is served—
   (a) which the local housing authority consider to be a breach of the undertaking, and
   (b) which is notified to that person in accordance with the terms of the undertaking.

(5) If an improvement notice does provide for the operation of the notice to be suspended under this section—
   (a) any periods specified in the notice under section 13 are to be fixed by reference to the day when the suspension ends, and
   (b) in subsection (3) of that section the reference to the 28th day after that on which the notice is served is to be read as referring to the 21st day after that on which the suspension ends.

15 Operation of improvement notices

(1) This section deals with the time when an improvement notice becomes operative.

(2) The general rule is that an improvement notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under Part 1 of Schedule 1 (which is the period for appealing against the notice under Part 3 of that Schedule).

(3) The general rule is subject to subsection (4) (suspended notices) and subsection (5) (appeals).

(4) If the notice is suspended under section 14, the notice becomes operative at the time when the suspension ends.
   This is subject to subsection (5).

(5) If an appeal against the notice is made under Part 3 of Schedule 1, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 19 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends).

(6) If no appeal against an improvement notice is made under that Part of that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.

16 Revocation and variation of improvement notices

(1) The local housing authority must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with.

(2) The local housing authority may revoke an improvement notice if—
  (a) in the case of a notice served under section 11, they consider that there are any special circumstances making it appropriate to revoke the notice; or
  (b) in the case of a notice served under section 12, they consider that it is appropriate to revoke the notice.

(3) Where an improvement notice relates to a number of hazards—
  (a) subsection (1) is to be read as applying separately in relation to each of those hazards, and
  (b) if, as a result, the authority are required to revoke only part of the notice, they may vary the remainder as they consider appropriate.

(4) The local housing authority may vary an improvement notice—
  (a) with the agreement of the person on whom the notice was served, or
  (b) in the case of a notice whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.

(5) A revocation under this section comes into force at the time when it is made.

(6) If it is made with the agreement of the person on whom the improvement notice was served, a variation under this section comes into force at the time when it is made.

(7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 20 of Schedule 1 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(8) The power to revoke or vary an improvement notice under this section is exercisable by the authority either—
  (a) on an application made by the person on whom the improvement notice was served, or
  (b) on the authority's own initiative.

17 Review of suspended improvement notices

(1) The local housing authority may at any time review an improvement notice whose operation is suspended.

(2) The local housing authority must review an improvement notice whose operation is suspended not later than one year after the date of service of the notice and at subsequent intervals of not more than one year.

(3) Copies of the authority's decision on a review under this section must be served—
  (a) on the person on whom the improvement notice was served, and
  (b) on every other person on whom a copy of the notice was required to be served.

18 Service of improvement notices etc. and related appeals

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

19 Change in person liable to comply with improvement notice

(1) This section applies where—
  (a) an improvement notice has been served on any person ("the original recipient") in respect of any premises, and
  (b) at a later date ("the changeover date") that person ceases to be a person of the relevant category in respect of the premises.

(2) In subsection (1) the reference to a person ceasing to be a "person of the relevant category" is a reference to his ceasing to fall within the description of person (such as, for example, the holder of a licence under Part 2 or 3 or the person managing a dwelling) by reference to which the improvement notice was served on him.

(3) As from the changeover date, the liable person in respect of the premises is to be in the same position as if—
  (a) the improvement notice had originally been served on him, and
  (b) he had taken all steps relevant for the purposes of this Part which the original recipient had taken.

(4) The effect of subsection (3) is that, in particular, any period for compliance with the notice or for bringing any appeal is unaffected.

(5) But where the original recipient has become subject to any liability arising by virtue of this Part before the changeover date, subsection (3) does not have the effect of—
  (a) relieving him of the liability, or
  (b) making the new liable person subject to it.

(6) Subsection (3) applies with any necessary modifications where a person to whom it applies (by virtue of any provision of this section) ceases to be the liable person in respect of the premises.

(7) Unless subsection (8) or (9) applies, the person who is at any time the "liable person" in respect of any premises is the person having control of the premises.

(8) If—
  (a) the original recipient was served as the person managing the premises, and
  (b) there is a new person managing the premises as from the changeover date,

that new person is the "liable person".

(9) If the original recipient was served as an owner of the premises, the "liable person" is the owner's successor in title on the changeover date.

Prohibition orders

20 Prohibition orders relating to category 1 hazards: duty of authority to make order

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

making a prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsections (3) and (4) and section 22.

(3) The order may prohibit use of the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may prohibit use of the dwelling or HMO;

(b) if those premises are one or more flats, it may prohibit use of the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may prohibit use of the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), prohibit use of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is necessary for such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A prohibition order under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

21 Prohibition orders relating to category 2 hazards: power of authority to make order

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may make a prohibition order under this section in respect of the hazard.

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsection (3) and section 22.

(3) Subsections (3) and (4) of section 20 apply to a prohibition order under this section as they apply to one under that section.

(4) A prohibition order under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) A prohibition order under this section may be combined in one document with an order under section 20 where they impose prohibitions on the use of the same premises or on the use of premises in the same building containing one or more flats.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

22 Contents of prohibition orders

(1) A prohibition order under section 20 or 21 must comply with the following provisions of this section.

(2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates—
  (a) whether the order is made under section 20 or 21,
  (b) the nature of the hazard concerned and the residential premises on which it exists,
  (c) the deficiency giving rise to the hazard,
  (d) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4)), and
  (e) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25.

(3) The order may impose such prohibition or prohibitions on the use of any premises as—
  (a) comply with section 20(3) and (4), and
  (b) the local housing authority consider appropriate in view of the hazard or hazards in respect of which the order is made.

(4) Any such prohibition may prohibit use of any specified premises, or of any part of those premises, either—
  (a) for all purposes, or
  (b) for any particular purpose,

except (in either case) to the extent to which any use of the premises or part is approved by the authority.

(5) A prohibition imposed by virtue of subsection (4)(b) may, in particular, relate to—
  (a) occupation of the premises or part by more than a particular number of households or persons; or

(b) occupation of the premises or part by particular descriptions of persons.

(6) The order must also contain information about—

(a) the right under Part 3 of Schedule 2 to appeal against the order, and

(b) the period within which an appeal may be made,

and specify the date on which the order is made.

(7) Any approval of the authority for the purposes of subsection (4) must not be unreasonably withheld.

(8) If the authority do refuse to give any such approval, they must notify the person applying for the approval of—

(a) their decision,

(b) the reasons for it and the date on which it was made,

(c) the right to appeal against the decision under subsection (9), and

(d) the period within which an appeal may be made,

within the period of seven days beginning with the day on which the decision was made.

(9) The person applying for the approval may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified in the notice as the date on which it was made.

(10) In this Part of this Act "specified premises", in relation to a prohibition order, means premises specified in the order, in accordance with subsection (2)(d), as premises in relation to which prohibitions are imposed by the order.

23 Suspension of prohibition orders

(1) A prohibition order may provide for the operation of the order to be suspended until a time, or the occurrence of an event, specified in the order.

(2) The time so specified may, in particular, be the time when a person of a particular description begins, or ceases, to occupy any premises.

(3) The event so specified may, in particular, be a notified breach of an undertaking accepted by the local housing authority for the purposes of this section from a person on whom a copy of the order is served.

(4) In subsection (3) a "notified breach", in relation to such an undertaking, means an act or omission by such a person—

(a) which the local housing authority consider to be a breach of the undertaking, and

(b) which is notified to that person in accordance with the terms of the undertaking.

24 Operation of prohibition orders

(1) This section deals with the time when a prohibition order becomes operative.

(2) The general rule is that a prohibition order becomes operative at the end of the period of 28 days beginning with the date specified in the notice as the date on which it is made.

(3) The general rule is subject to subsection (4) (suspended orders) and subsection (5) (appeals).

(4) If the order is suspended under section 23, the order becomes operative at the time when the suspension ends.

This is subject to subsection (5).

(5) If an appeal is brought against the order under Part 3 of Schedule 2, the order does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 14 of that Schedule (time when order is confirmed on appeal, period for further appeal expires or suspension ends).

(6) If no appeal against a prohibition order is made under that Part of that Schedule within the period for appealing against it, the order is final and conclusive as to matters which could have been raised on an appeal.

(7) Sections 584A and 584B of the Housing Act 1985 (c. 68) provide for the payment of compensation where certain prohibition orders become operative, and for the repayment of such compensation in certain circumstances.

25 Revocation and variation of prohibition orders

(1) The local housing authority must revoke a prohibition order if at any time they are satisfied that the hazard in respect of which the order was made does not then exist on the residential premises specified in the order in accordance with section 22(2)(b).

(2) The local housing authority may revoke a prohibition order if—

(a) in the case of an order made under section 20, they consider that there are any special circumstances making it appropriate to revoke the order; or

(b) in the case of an order made under section 21, they consider that it is appropriate to do so.

(3) Where a prohibition order relates to a number of hazards—

(a) subsection (1) is to be read as applying separately in relation to each of those hazards, and

(b) if, as a result, the authority are required to revoke only part of the order, they may vary the remainder as they consider appropriate.

(4) The local housing authority may vary a prohibition order—

(a) with the agreement of every person on whom copies of the notice were required to be served under Part 1 of Schedule 2, or

(b) in the case of an order whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.

(5) A revocation under this section comes into force at the time when it is made.

(6) If it is made with the agreement of every person within subsection (4)(a), a variation under this section comes into force at the time when it is made.

(7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 15 of Schedule 2 (time when period for appealing expires without

an appeal being made or when decision to revoke or vary is confirmed on appeal).

(8) The power to revoke or vary a prohibition order under this section is exercisable by the authority either—

(a) on an application made by a person on whom a copy of the order was required to be served under Part 1 of Schedule 2, or

(b) on the authority's own initiative.

26 Review of suspended prohibition orders

(1) The local housing authority may at any time review a prohibition order whose operation is suspended.

(2) The local housing authority must review a prohibition order whose operation is suspended not later than one year after the date on which the order was made and at subsequent intervals of not more than one year.

(3) Copies of the authority's decision on a review under this section must be served on every person on whom a copy of the order was required to be served under Part 1 of Schedule 2.

27 Service of copies of prohibition orders etc. and related appeals

Schedule 2 (which deals with the service of copies of prohibition orders, and notices relating to their revocation or variation, and with related appeals) has effect.

Hazard awareness notices

28 Hazard awareness notices relating to category 1 hazards: duty of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

serving a hazard awareness notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 1 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.

(3) The notice may be served in respect of the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may be served in respect of the dwelling or HMO;

(b) if those premises are one or more flats, it may be served in respect of the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may be served in respect of the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), be served in respect of any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is desirable for the notice to be so served in the interests of the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(6) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises on which the deficiency exists,

(d) the authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and

(e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.

(7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.

(8) For that purpose, any reference in that Part of that Schedule to "the specified premises" is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (6)(c).

29 Hazard awareness notices relating to category 2 hazards: power of authority to serve notice

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve a hazard awareness notice under this section in respect of the hazard.

(2) A hazard awareness notice under this section is a notice advising the person on whom it is served of the existence of a category 2 hazard on the residential premises concerned which arises as a result of a deficiency on the premises in respect of which the notice is served.

(3) Subsections (3) and (4) of section 28 apply to a hazard awareness notice under this section as they apply to one under that section.

(4) A notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) A notice under this section must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises on which the deficiency exists,

(d) the authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action, and

(e) details of the remedial action (if any) which the authority consider that it would be practicable and appropriate to take in relation to the hazard.

(6) A notice under this section may be combined in one document with a notice under section 28 where they are served in respect of the same premises.

(7) Part 1 of Schedule 1 (which relates to the service of improvement notices and copies of such notices) applies to a notice under this section as if it were an improvement notice.

(8) For that purpose, any reference in that Part of that Schedule to "the specified premises" is, in relation to a hazard awareness notice under this section, a reference to the premises specified under subsection (5)(c).

Enforcement: improvement notices

30 Offence of failing to comply with improvement notice

(1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.

(2) For the purposes of this Chapter compliance with an improvement notice means, in relation to each hazard, beginning and completing any remedial action specified in the notice—

(a) (if no appeal is brought against the notice) not later than the date specified under section 13(2)(e) and within the period specified under section 13(2)(f);

(b) (if an appeal is brought against the notice and is not withdrawn) not later than such date and within such period as may be fixed by the tribunal determining the appeal; and

(c) (if an appeal brought against the notice is withdrawn) not later than the 21st day after the date on which the notice becomes operative and within the period (beginning on that 21st day) specified in the notice under section 13(2)(f).

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.

(5) The obligation to take any remedial action specified in the notice in relation to a hazard continues despite the fact that the period for completion of the action has expired.

(6) In this section any reference to any remedial action specified in a notice includes a reference to any part of any remedial action which is required to be completed within a particular period specified in the notice.

31 Enforcement action by local housing authorities

Schedule 3 (which enables enforcement action in respect of an improvement notice to be taken by local housing authorities either with or without agreement and which provides for the recovery of related expenses) has effect.

Enforcement: prohibition orders

32 Offence of failing to comply with prohibition order etc.

(1) A person commits an offence if, knowing that a prohibition order has become operative in relation to any specified premises, he—
  (a) uses the premises in contravention of the order, or
  (b) permits the premises to be so used.

(2) A person who commits an offence under subsection (1) is liable on summary conviction—
  (a) to a fine not exceeding level 5 on the standard scale, and
  (b) to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.

(3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for using the premises, or (as the case may be) permitting them to be used, in contravention of the order.

33 Recovery of possession of premises in order to comply with order

Nothing in—
  (a) the Rent Act 1977 (c. 42) or the Rent (Agriculture) Act 1976 (c. 80), or
  (b) Part 1 of the Housing Act 1988 (c. 50),

prevents possession being obtained by the owner of any specified premises in relation to which a prohibition order is operative if possession of the premises is necessary for the purpose of complying with the order.

34 Power of tribunal to determine or vary lease

(1) Subsection (2) applies where—
  (a) a prohibition order has become operative, and
  (b) the whole or part of any specified premises form the whole or part of the subject matter of a lease.

(2) The lessor or the lessee may apply to a residential property tribunal for an order determining or varying the lease.

(3) On such an application the tribunal may make an order determining or varying the lease, if it considers it appropriate to do so.

(4) Before making such an order, the tribunal must give any sub-lessee an opportunity of being heard.

(5) An order under this section may be unconditional or subject to such terms and conditions as the tribunal considers appropriate.

(6) The conditions may, in particular, include conditions about the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

(7) In deciding what is appropriate for the purposes of this section, the tribunal must have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.

(8) In this section "lessor" and "lessee" include a person deriving title under a lessor or lessee.

Enforcement: improvement notices and prohibition orders

35 Power of court to order occupier or owner to allow action to be taken on premises

(1) This section applies where an improvement notice or prohibition order has become operative.

(2) If the occupier of any specified premises—
   (a) has received reasonable notice of any intended action in relation to the premises, but
   (b) is preventing a relevant person, or any representative of a relevant person or of the local housing authority, from taking that action in relation to the premises,

   a magistrates' court may order the occupier to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.

(3) If a relevant person—
   (a) has received reasonable notice of any intended action in relation to any specified premises, but
   (b) is preventing a representative of the local housing authority from taking that action in relation to the premises,

   a magistrates' court may order the relevant person to permit to be done on the premises anything which the court considers is necessary or expedient for the purpose of enabling the intended action to be taken.

(4) A person who fails to comply with an order of the court under this section commits an offence.

(5) In proceedings for an offence under subsection (4) it is a defence that the person had a reasonable excuse for failing to comply with the order.

(6) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding £20 in respect of each day or part of a day during which the failure continues.

(7) In this section "intended action", in relation to any specified premises, means—
   (a) where an improvement notice has become operative, any action which the person on whom that notice has been served is required by the notice to take in relation to the premises and which—

(a) (in the context of subsection (2)) is proposed to be taken by or on behalf of that person or on behalf of the local housing authority in pursuance of Schedule 3, or

(b) (in the context of subsection (3)) is proposed to be taken on behalf of the local housing authority in pursuance of Schedule 3;

(b) where a prohibition order has become operative, any action which is proposed to be taken and which either is necessary for the purpose of giving effect to the order or is remedial action specified in the order in accordance with section 22(2)(e).

(8) In this section—

"relevant person", in relation to any premises, means a person who is an owner of the premises, a person having control of or managing the premises, or the holder of any licence under Part 2 or 3 in respect of the premises;

"representative" in relation to a relevant person or a local housing authority, means any officer, employee, agent or contractor of that person or authority.

36 Power of court to authorise action by one owner on behalf of another

(1) Where an improvement notice or prohibition order has become operative, an owner of any specified premises may apply to a magistrates' court for an order under subsection (2).

(2) A magistrates' court may, on an application under subsection (1), make an order enabling the applicant—

(a) immediately to enter on the premises, and

(b) to take any required action within a period fixed by the order.

(3) In this section "required action" means—

(a) in the case of an improvement notice, any remedial action which is required to be taken by the notice;

(b) in the case of a prohibition order, any action necessary for the purpose of complying with the order or any remedial action specified in the order in accordance with section 22(2)(e).

(4) No order may be made under subsection (2) unless the court is satisfied that the interests of the applicant will be prejudiced as a result of a failure by another person to take any required action.

(5) No order may be made under subsection (2) unless notice of the application has been given to the local housing authority.

(6) If it considers that it is appropriate to do so, the court may make an order in favour of any other owner of the premises which is similar to the order that it is making in relation to the premises under subsection (2).

Supplementary provisions

37 Effect of improvement notices and prohibition orders as local land charges

(1) An improvement notice or a prohibition order under this Chapter is a local land charge if subsection (2), (3) or (4) applies.

(2) This subsection applies if the notice or order has become operative.

(3) This subsection applies if—
  (a) the notice or order is suspended under section 14 or 23, and
  (b) the period for appealing against it under Part 3 of Schedule 1 or 2 has expired without an appeal having been brought.

(4) This subsection applies if—
  (a) the notice or order is suspended under section 14 or 23,
  (b) an appeal has been brought against it under Part 3 of Schedule 1 or 2, and
  (c) were it not suspended—
    (i) the notice would have become operative under section 15(5) by virtue of paragraph 19(2) of Schedule 1 (improvement notices: confirmation on appeal or expiry of period for further appeal), or
    (ii) the order would have become operative under section 24(5) by virtue of paragraph 14(2) of Schedule 2 (prohibition orders: confirmation on appeal or expiry of period for further appeal).

38 Savings for rights arising from breach of covenant etc.

(1) Nothing in this Chapter affects any remedy of an owner for breach of any covenant or contract entered into by a tenant in connection with any premises which are specified premises in relation to an improvement notice or prohibition order.

(2) If an owner is obliged to take possession of any premises in order to comply with an improvement notice or prohibition order, the taking of possession does not affect his right to take advantage of any such breach which occurred before he took possession.

(3) No action taken under this Chapter affects any remedy available to the tenant of any premises against his landlord (whether at common law or otherwise).

39 Effect of Part 4 enforcement action and redevelopment proposals

(1) Subsection (2) applies if—
  (a) an improvement notice or prohibition order has been served or made under this Chapter, and
  (b) a management order under Chapter 1 or 2 of Part 4 comes into force in relation to the specified premises.

(2) The improvement notice or prohibition order—
  (a) if operative at the time when the management order comes into force, ceases to have effect at that time, and
  (b) otherwise is to be treated as from that time as if it had not been served or made.

(3) Subsection (2)(a) does not affect any right acquired or liability (civil or criminal) incurred before the improvement notice or prohibition order ceases to have effect.

(4) Subsection (5) applies where, under section 308 of the Housing Act 1985 (c. 68) (owner's re-development proposals), the local housing authority have approved proposals for the re-development of land.

(5) No action is to be taken under this Chapter in relation to the land if, and so long as, the re-development is being proceeded with (subject to any variation or extension approved by the authority)—

(a) in accordance with the proposals; and

(b) within the time limits specified by the local housing authority.

CHAPTER 3

EMERGENCY MEASURES

Emergency remedial action

40 Emergency remedial action

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises, and

(c) no management order is in force under Chapter 1 or 2 of Part 4 in relation to the premises mentioned in paragraph (a),

the taking by the authority of emergency remedial action under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) "Emergency remedial action" means such remedial action in respect of the hazard concerned as the authority consider immediately necessary in order to remove the imminent risk of serious harm within subsection (1)(b).

(3) Emergency remedial action under this section may be taken by the authority in relation to any premises in relation to which remedial action could be required to be taken by an improvement notice under section 11 (see subsections (3) and (4) of that section).

(4) Emergency remedial action under this section may be taken by the authority in respect of more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(5) Paragraphs 3 to 5 of Schedule 3 (improvement notices: enforcement action by local authorities) apply in connection with the taking of emergency remedial action under this section as they apply in connection with the taking of the remedial action required by an improvement notice which has become operative but has not been complied with.

But those paragraphs so apply with the modifications set out in subsection (6).

(6) The modifications are as follows—

(a) the right of entry conferred by paragraph 3(4) may be exercised at any time; and

(b) the notice required by paragraph 4 (notice before entering premises) must (instead of being served in accordance with that paragraph) be served on every person, who to the authority's knowledge—

(i) is an occupier of the premises in relation to which the authority propose to take emergency remedial action, or

(ii) if those premises are common parts of a building containing one or more flats, is an occupier of any part of the building; but

(c) that notice is to be regarded as so served if a copy of it is fixed to some conspicuous part of the premises or building.

(7) Within the period of seven days beginning with the date when the authority start taking emergency remedial action, the authority must serve—

(a) a notice under section 41, and

(b) copies of such a notice,

on the persons on whom the authority would be required under Part 1 of Schedule 1 to serve an improvement notice and copies of it.

(8) Section 240 (warrant to authorise entry) applies for the purpose of enabling a local housing authority to enter any premises to take emergency remedial action under this section in relation to the premises, as if—

(a) that purpose were mentioned in subsection (2) of that section, and

(b) the circumstances as to which the justice of the peace must be satisfied under subsection (4) were that there are reasonable grounds for believing that the authority will not be able to gain admission to the premises without a warrant.

(9) For the purposes of the operation of any provision relating to improvement notices as it applies by virtue of this section in connection with emergency remedial action or a notice under section 41, any reference in that provision to the specified premises is to be read as a reference to the premises specified, in accordance with section 41(2)(c), as those in relation to which emergency remedial action has been (or is to be) taken.

41 Notice of emergency remedial action

(1) The notice required by section 40(7) is a notice which complies with the following requirements of this section.

(2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises in relation to which emergency remedial action has been (or is to be) taken by the authority under section 40 and the nature of that remedial action,

(d) the power under which that remedial action has been (or is to be) taken by the authority, and

(e) the date when that remedial action was (or is to be) started.

(3) The notice must contain information about—

(a) the right to appeal under section 45 against the decision of the authority to make the order, and

(b) the period within which an appeal may be made.

42 Recovery of expenses of taking emergency remedial action

(1) This section relates to the recovery by a local housing authority of expenses reasonably incurred in taking emergency remedial action under section 40 ("emergency expenses").

(2) Paragraphs 6 to 14 of Schedule 3 (improvement notices: enforcement action by local authorities) apply for the purpose of enabling a local housing authority to recover emergency expenses as they apply for the purpose of enabling such an authority to recover expenses incurred in taking remedial action under paragraph 3 of that Schedule.
But those paragraphs so apply with the modifications set out in subsection (3).

(3) The modifications are as follows—
(a) any reference to the improvement notice is to be read as a reference to the notice under section 41; and
(b) no amount is recoverable in respect of any emergency expenses until such time (if any) as is the operative time for the purposes of this subsection (see subsection (4)).

(4) This subsection gives the meaning of "the operative time" for the purposes of subsection (3)—
(a) if no appeal against the authority's decision to take the emergency remedial action is made under section 45 before the end of the period of 28 days mentioned in subsection (3)(a) of that section, "the operative time" is the end of that period;
(b) if an appeal is made under that section within that period and a decision is given on the appeal which confirms the authority's decision, "the operative time" is as follows—
(i) 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;
(ii) 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 authority's decision.

(5) For the purposes of subsection (4)—
(a) the withdrawal of an appeal has the same effect as a decision which confirms the authority's decision, and
(b) references to a decision which confirms the authority's decision are to a decision which confirms it with or without variation.

Emergency prohibition orders

43 Emergency prohibition orders

(1) If—
(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and
(b) they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises, and
(c) no management order is in force under Chapter 1 or 2 of Part 4 in relation to the premises mentioned in paragraph (a),

making an emergency prohibition order under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) An emergency prohibition order under this section is an order imposing, with immediate effect, such prohibition or prohibitions on the use of any premises as are specified in the order in accordance with subsection (3) and section 44.

(3) As regards the imposition of any such prohibition or prohibitions, the following provisions apply to an emergency prohibition order as they apply to a prohibition order under section 20—

(a) subsections (3) to (5) of that section, and

(b) subsections (3) to (5) and (7) to (9) of section 22.

(4) Part 1 of Schedule 2 (service of copies of prohibition orders) applies in relation to an emergency prohibition order as it applies to a prohibition order, but any requirement to serve copies within a specified period of seven days is to be read as a reference to serve them on the day on which the emergency prohibition order is made (or, if that is not possible, as soon after that day as is possible).

(5) The following provisions also apply to an emergency prohibition order as they apply to a prohibition order (or to a prohibition order which has become operative, as the case may be)—

(a) section 25 (revocation and variation);

(b) sections 32 to 36 (enforcement);

(c) sections 37 to 39 (supplementary provisions); and

(d) Part 2 of Schedule 2 (notices relating to revocation or variation);

(e) Part 3 of that Schedule (appeals) so far as it relates to any decision to vary, or to refuse to revoke or vary, a prohibition order; and

(f) sections 584A and 584B of the Housing Act 1985 (c. 68) (payment, and repayment, of compensation).

(6) For the purposes of the operation of any provision relating to prohibition orders as it applies in connection with emergency prohibition orders by virtue of this section or section 45, any reference in that provision to the specified premises is to be read as a reference to the premises specified, in accordance with section 44(2)(c), as the premises in relation to which prohibitions are imposed by the order.

44 Contents of emergency prohibition orders

(1) An emergency prohibition order under section 43 must comply with the following requirements of this section.

(2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) the nature of the hazard concerned and the residential premises on which it exists,

(b) the deficiency giving rise to the hazard,

(c) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4) of section 22 as applied by section 43(3)), and

(d) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25 (as applied by section 43(5)).

(3) The order must contain information about—

(a) the right to appeal under section 45 against the order, and

(b) the period within which an appeal may be made,

and specify the date on which the order is made.

Appeals

45 Appeals relating to emergency measures

(1) A person on whom a notice under section 41 has been served in connection with the taking of emergency remedial action under section 40 may appeal to a residential property tribunal against the decision of the local housing authority to take that action.

(2) A relevant person may appeal to a residential property tribunal against an emergency prohibition order.

(3) An appeal under subsection (1) or (2) must be made within the period of 28 days beginning with—

(a) the date specified in the notice under section 41 as the date when the emergency remedial action was (or was to be) started, or

(b) the date specified in the emergency prohibition order as the date on which the order was made,

as the case may be.

(4) A residential property tribunal may allow an appeal to be made to it after the end of that period 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).

(5) An appeal under subsection (1) or (2)—

(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.

(6) The tribunal may—

(a) in the case of an appeal under subsection (1), confirm, reverse or vary the decision of the authority;

(b) in the case of an appeal under subsection (2), confirm or vary the emergency prohibition order or make an order revoking it as from a date specified in that order.

(7) Paragraph 16 of Schedule 2 applies for the purpose of identifying who is a relevant person for the purposes of subsection (2) in relation to an emergency prohibition order as it applies for the purpose of identifying who is a relevant person for the purposes of Part 3 of that Schedule in relation to a prohibition order.

CHAPTER 4

DEMOLITION ORDERS AND SLUM CLEARANCE DECLARATIONS

Demolition orders

46 Demolition orders

For section 265 of the Housing Act 1985 (c. 68) substitute—

"265 Demolition orders

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists in a dwelling or HMO which is not a flat, and

(b) this subsection is not disapplied by subsection (5),

making a demolition order in respect of the dwelling or HMO is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action).

(2) If, in the case of any building containing one or more flats—

(a) the local housing authority are satisfied that a category 1 hazard exists in one or more of the flats contained in the building or in any common parts of the building, and

(b) this subsection is not disapplied by subsection (5),

making a demolition order in respect of the building is a course of action available to the authority in relation to the hazard for the purposes of section 5 of the Housing Act 2004.

(3) The local housing authority may make a demolition order in respect of a dwelling or HMO which is not a flat if—

(a) they are satisfied that a category 2 hazard exists in the dwelling or HMO,

(b) this subsection is not disapplied by subsection (5), and

(c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

(4) The local housing authority may make a demolition order in respect of any building containing one or more flats if—

(a) they are satisfied that a category 2 hazard exists in one or more of the flats contained in the building or in any common parts of the building,

(b) this subsection is not disapplied by subsection (5), and

(c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

(5) None of subsections (1) to (4) applies if a management order under Chapter 1 or 2 of Part 4 is in force in relation to the premises concerned.

(6) This section also has effect subject to section 304(1) (no demolition order to be made in respect of listed building).

(7) In this section "HMO" means house in multiple occupation.

(8) An order made under subsection (3) or (4)—

(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.

(9) Sections 584A and 584B provide for the payment of compensation where demolition orders are made under this section, and for the repayment of such compensation in certain circumstances."

Slum clearance declarations

47 Clearance areas

In section 289 of the Housing Act 1985 (c. 68) (declaration of clearance area) for subsections (2) and (2A) substitute—

"(2) If the local housing authority are satisfied, in relation to any area—

(a) that each of the residential buildings in the area contains a category 1 hazard, and

(b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area,

declaring the area to be a clearance area is a course of action available to the authority in relation to the hazard or hazards for the purposes of section 5 of the Housing Act 2004 (category 1 hazards: general duty to take enforcement action).

(2ZA) The local housing authority may declare an area to be a clearance area if they are satisfied that—

(a) the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets; and

(b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.

(2ZB) The local housing authority may declare an area to be a clearance area if they are satisfied that—

(a) that each of the residential buildings in the area contains a category 2 hazard,

(b) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, and

(c) the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.

Subsection (8) of section 265 applies in relation to an order under this subsection as it applies in relation to an order under subsection (3) or (4) of that section.

(2ZC) In this section "residential buildings" means buildings which are dwellings or houses in multiple occupation or contain one or more flats.

This is subject to subsection (2ZD).

(2ZD) For the purposes of subsection (2) or (2ZB)—

(a) subsection (2ZC) applies as if "two or more flats" were substituted for "one or more flats"; and

(b) a residential building containing two or more flats is only to be treated as containing a category 1 or 2 hazard if two or more of the flats within it contain such a hazard.

(2ZE) Subsections (2) to (2ZB) are subject to subsections (2B) to (4) and (5B)."

Appeals

48 Transfer of jurisdiction in respect of appeals relating to demolition orders etc.

(1) Part 9 of the Housing Act 1985 (c. 68) (slum clearance) is further amended as follows.

(2) In section 269 (right of appeal against demolition order etc.)—

(a) in subsection (1), for "the county court" substitute "a residential property tribunal";

(b) in subsection (3), for "court" substitute "tribunal"; and

(c) in subsection (6)(a) and (b), for "Court of Appeal" substitute "Lands Tribunal".

(3) In section 272 (demolition orders)—

(a) in subsection (2), for "the court" in the first place it appears substitute "a residential property tribunal", and in the second place it appears substitute "such a tribunal";

(b) in subsection (5), for the words from the beginning to "and has" substitute "A residential property tribunal has jurisdiction to hear and determine proceedings under subsection (1) (as well as those under subsection (2)), and a county court has"; and

(c) in subsection (6), for "the court" substitute "a tribunal or court".

(4) In section 317 (power of court to determine lease where premises demolished etc.)—

(a) in subsection (1), for "the county court" substitute "a residential property tribunal"; and

(b) in subsections (2) and (3), for "court" substitute "tribunal".

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

(a) in the sidenote, for "court" substitute "tribunal";

(b) in subsection (1), for "the court" in the first place it appears substitute "a residential property tribunal", and in the second place it appears substitute "the tribunal";

(c) in subsections (2) and (3), for "court" substitute "tribunal"; and

(d) omit subsection (4).

CHAPTER 5

GENERAL AND MISCELLANEOUS PROVISIONS RELATING TO ENFORCEMENT ACTION

Recovery of expenses relating to enforcement action

49 Power to charge for certain enforcement action

(1) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in—
  (a) serving an improvement notice under section 11 or 12;
  (b) making a prohibition order under section 20 or 21;
  (c) serving a hazard awareness notice under section 28 or 29;
  (d) taking emergency remedial action under section 40;
  (e) making an emergency prohibition order under section 43; or
  (f) making a demolition order under section 265 of the Housing Act 1985 (c. 68).

(2) The expenses are, in the case of the service of an improvement notice or a hazard awareness notice, the expenses incurred in—
  (a) determining whether to serve the notice,
  (b) identifying any action to be specified in the notice, and
  (c) serving the notice.

(3) The expenses are, in the case of emergency remedial action under section 40, the expenses incurred in—
  (a) determining whether to take such action, and
  (b) serving the notice required by subsection (7) of that section.

(4) The expenses are, in the case of a prohibition order under section 20 or 21 of this Act, an emergency prohibition order under section 43 or a demolition order under section 265 of the Housing Act 1985, the expenses incurred in—
  (a) determining whether to make the order, and
  (b) serving copies of the order on persons as owners of premises.

(5) A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering expenses incurred by them in—
  (a) carrying out any review under section 17 or 26, or
  (b) serving copies of the authority's decision on such a review.

(6) The amount of the charge may not exceed such amount as is specified by order of the appropriate national authority.

(7) Where a tribunal allows an appeal against the underlying notice or order mentioned in subsection (1), it may make such order as it considers appropriate reducing, quashing, or requiring the repayment of, any charge under this section made in respect of the notice or order.

50 Recovery of charge under section 49

(1) This section relates to the recovery by a local housing authority of a charge made by them under section 49.

(2) In the case of—
(a) an improvement notice under section 11 or 12, or
(b) a hazard awareness notice under section 28 or 29,
the charge may be recovered from the person on whom the notice is served.

(3) In the case of emergency remedial action under section 40, the charge may be recovered from the person served with the notice required by subsection (7) of that section.

(4) In the case of—
(a) a prohibition order under section 20 or 21,
(b) an emergency prohibition order under section 43, or
(c) a demolition order under section 265 of the Housing Act 1985 (c. 68),
the charge may be recovered from any person on whom a copy of the order is served as an owner of the premises.

(5) A demand for payment of the charge must be served on the person from whom the authority seek to recover it.

(6) The demand becomes operative, if no appeal is brought against the underlying notice or order, at the end of the period of 21 days beginning with the date of service of the demand.

(7) If such an appeal is brought and a decision is given on the appeal which confirms the underlying notice or order, the demand becomes operative at the time when—
(a) the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, or
(b) a decision is given on such an appeal which confirms the notice or order.

(8) For the purposes of subsection (7)—
(a) the withdrawal of an appeal has the same effect as a decision which confirms the notice or order, and
(b) references to a decision which confirms the notice or order are to a decision which confirms it with or without variation.

(9) As from the time when the demand becomes operative, the sum recoverable by the authority is, until recovered, a charge on the premises concerned.

(10) The charge takes effect at that time as a legal charge which is a local land charge.

(11) 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.

(12) 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.

(13) The appropriate national authority may by regulations prescribe the form of, and the particulars to be contained in, a demand for payment of any charge under section 49.

Repeals

51 Repeal of power to improve existing enforcement procedures

Omit section 86 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (power to improve existing enforcement procedures in relation to unfitness for human habitation etc.).

52 Repeal of provisions relating to demolition of obstructive buildings

Omit sections 283 to 288 of the Housing Act 1985 (c. 68) (demolition of obstructive buildings).

53 Miscellaneous repeals etc. in relation to fire hazards

(1) In the London Building Acts (Amendment) Act 1939 (c. xcvii)—
  (a) omit section 35(1)(c)(i) (protection against fire in certain old buildings let in flats or tenements);
  (b) in section 36(1) (projecting shops in which persons are employed or sleep) omit "or sleep"; and
  (c) in section 37(1) (means of access to roofs), in paragraph (b) for the words from "except" onwards substitute "except to the extent that it is occupied for residential purposes;".

(2) In the County of Merseyside Act 1980 (c. x) omit section 48 (means of escape from fire) and section 49(1) and (2) (maintenance of means of escape from fire).

(3) In the Building Act 1984 (c. 55) omit section 72(6)(a) (means of escape from fire in case of certain buildings let in flats or tenements).

(4) In the Leicestershire Act 1985 (c. xvii) omit section 54(6)(a) (means of escape from fire in case of certain buildings used as flats or tenements).

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54 Index of defined expressions: Part 1

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

Expression	*Provision of this Act*
Appropriate national authority	Section 261(1)
Building containing one or more flats	Section 1(5)
Category 1 hazard	Section 2(1)
Category 2 hazard	Section 2(1)
Common parts	Section 1(5)
Compliance with improvement notice	Section 30(2)

Expression	*Provision of this Act*
District of local housing authority	Section 261(6)
Dwelling	Section 1(5), (6)
External common parts	Section 1(5)
Flat	Section 1(5) to (7)
Hazard	Section 2(1)
Hazard awareness notice	Section 28(2) or 29(2)
Health	Section 2(5)
HMO	Section 1(5), (6) (and see also section 1(8))
Improvement notice	Section 11(2) or 12(2)
Lease, lessee etc.	Section 262(1) to (4)
Local housing authority	Section 261(2) to (5)
Occupier (and related expressions)	Section 262(6)
Owner	Section 262(7)
Person having control	Section 263(1) and (2)
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Prohibition order	Section 20(2) or 21(2)
Remedial action	Section 11(8)
Residential premises	Section 1(4)
Residential property tribunal	Section 229
Specified premises, in relation to an improvement notice	Section 13(5)
Specified premises, in relation to a prohibition order	Section 22(10)
Tenancy, tenant	Section 262(1) to (5)
Unoccupied HMO accommodation	Section 1(5) (and see also section 1(8)).

PART 2

LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Introductory

55 Licensing of HMOs to which this Part applies

(1) This Part provides for HMOs to be licensed by local housing authorities where—
  (a) they are HMOs to which this Part applies (see subsection (2)), and
  (b) they are required to be licensed under this Part (see section 61(1)).

(2) This Part applies to the following HMOs in the case of each local housing authority—
  (a) any HMO in the authority's district which falls within any prescribed description of HMO, and
  (b) if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation.

(3) The appropriate national authority may by order prescribe descriptions of HMOs for the purposes of subsection (2)(a).

(4) The power conferred by subsection (3) may be exercised in such a way that this Part applies to all HMOs in the district of a local housing authority.

(5) Every local housing authority have the following general duties—
  (a) to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part;
  (b) to ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time; and
  (c) to satisfy themselves, as soon as is reasonably practicable, that there are no Part 1 functions that ought to be exercised by them in relation to the premises in respect of which such applications are made.

(6) For the purposes of subsection (5)(c)—
  (a) "Part 1 function" means any duty under section 5 to take any course of action to which that section applies or any power to take any course of action to which section 7 applies; and
  (b) the authority may take such steps as they consider appropriate (whether or not involving an inspection) to comply with their duty under subsection (5)(c) in relation to each of the premises in question, but they must in any event comply with it within the period of 5 years beginning with the date of the application for a licence.

Designation of additional licensing areas

56 Designation of areas subject to additional licensing

(1) A local housing authority may designate either—
  (a) the area of their district, or

(b) an area in their district,

as subject to additional licensing in relation to a description of HMOs specified in the designation, if the requirements of this section are met.

(2) The authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.

(3) Before making a designation the authority must—

(a) take reasonable steps to consult persons who are likely to be affected by the designation; and

(b) consider any representations made in accordance with the consultation and not withdrawn.

(4) The power to make a designation under this section may be exercised in such a way that this Part applies to all HMOs in the area in question.

(5) In forming an opinion as to the matter mentioned in subsection (2), the authority must have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question.

(6) Section 57 applies for the purposes of this section.

57 Designations under section 56: further considerations

(1) This section applies to the power of a local housing authority to make designations under section 56.

(2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy.

(3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both—

(a) as regards combining licensing under this Part with other courses of action available to them, and

(b) as regards combining such licensing with measures taken by other persons.

(4) The authority must not make a particular designation under section 56 unless—

(a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question, and

(b) they consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).

(5) In this Act "anti-social behaviour" means conduct on the part of occupiers of, or visitors to, residential premises—

(a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or

(b) which involves or is likely to involve the use of such premises for illegal purposes.

58 Designation needs confirmation or general approval to be effective

(1) A designation of an area as subject to additional licensing cannot come into force unless—
  (a) it has been confirmed by the appropriate national authority; or
  (b) it falls within a description of designations in relation to which that authority has given a general approval in accordance with subsection (6).

(2) The appropriate national authority may either confirm, or refuse to confirm, a designation as it considers appropriate.

(3) If the appropriate national authority confirms a designation, the designation comes into force on the date specified for this purpose by that authority.

(4) That date must be no earlier than three months after the date on which the designation is confirmed.

(5) A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.

(6) Accordingly a general approval may (in particular) be given in relation to—
  (a) designations made by a specified local housing authority;
  (b) designations made by a local housing authority falling within a specified description of such authorities;
  (c) designations relating to HMOs of a specified description.

"Specified" means specified by the appropriate national authority in the approval.

(7) If, by virtue of a general approval, a designation does not need to be confirmed before it comes into force, the designation comes into force on the date specified for this purpose in the designation.

(8) That date must be no earlier than three months after the date on which the designation is made.

59 Notification requirements relating to designations

(1) This section applies to a designation—
  (a) when it is confirmed under section 58, or
  (b) (if it is not required to be so confirmed) when it is made by the local housing authority.

(2) As soon as the designation is confirmed or made, the authority must publish in the prescribed manner a notice stating—
  (a) that the designation has been made,
  (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 58 applied to it (giving details of the approval in question),
  (c) the date on which the designation is to come into force, and
  (d) any other information which may be prescribed.

(3) After publication of a notice under subsection (2), and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements—
  (a) copies of the designation, and
  (b) such information relating to the designation as is prescribed.

(4) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

60 Duration, review and revocation of designations

(1) Unless previously revoked under subsection (4), a designation ceases to have effect at the time that is specified for this purpose in the designation.

(2) That time must be no later than five years after the date on which the designation comes into force.

(3) A local housing authority must from time to time review the operation of any designation made by them.

(4) If following a review they consider it appropriate to do so, the authority may revoke the designation.

(5) If they do revoke the designation, the designation ceases to have effect at the time that is specified by the authority for this purpose.

(6) On revoking a designation the authority must publish notice of the revocation in such manner as is prescribed by regulations made by the appropriate national authority.

HMOs required to be licensed

61 Requirement for HMOs to be licensed

(1) Every HMO to which this Part applies must be licensed under this Part unless—
  (a) a temporary exemption notice is in force in relation to it under section 62, or
  (b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

(2) A licence under this Part is a licence authorising occupation of the house concerned by not more than a maximum number of households or persons specified in the licence.

(3) Sections 63 to 67 deal with applications for licences, the granting or refusal of licences and the imposition of licence conditions.

(4) The local housing authority must take all reasonable steps to secure that applications for licences are made to them in respect of HMOs in their area which are required to be licensed under this Part but are not.

(5) The appropriate national authority may by regulations provide for—
  (a) any provision of this Part, or
  (b) section 263 (in its operation for the purposes of any such provision),

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

A "section 257 HMO" is an HMO which is a converted block of flats to which section 257 applies.

(6) In this Part (unless the context otherwise requires)—
  (a) references to a licence are to a licence under this Part,
  (b) references to a licence holder are to be read accordingly, and
  (c) references to an HMO being (or not being) licensed under this Part are to its being (or not being) an HMO in respect of which a licence is in force under this Part.

62 Temporary exemption from licensing requirement

(1) This section applies where a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed.

(2) The authority may, if they think fit, serve on that person a notice under this section ("a temporary exemption notice") in respect of the house.

(3) If a temporary exemption notice is served under this section, the house is (in accordance with sections 61(1) and 85(1)) not required to be licensed either under this Part or under Part 3 during the period for which the notice is in force.

(4) A temporary exemption notice under this section is in force—
  (a) for the period of 3 months beginning with the date on which it is served, or
  (b) (in the case of a notice served by virtue of subsection (5)) for the period of 3 months after the date when the first notice ceases to be in force.

(5) If the authority—
  (a) receive a further notification under subsection (1), and
  (b) consider that there are exceptional circumstances that justify the service of a second temporary exemption notice in respect of the house that would take effect from the end of the period of 3 months applying to the first notice,

the authority may serve a second such notice on the person having control of or managing the house (but no further notice may be served by virtue of this subsection).

(6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of—
  (a) the decision,
  (b) the reasons for it and the date on which it was made,
  (c) the right to appeal against the decision under subsection (7), and
  (d) the period within which an appeal may be made under that subsection.

(7) The person concerned may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made.

(8) Such an appeal—
  (a) is to be by way of a re-hearing, but
  (b) may be determined having regard to matters of which the authority were unaware.

(9) The tribunal—
  (a) may confirm or reverse the decision of the authority, and
  (b) if it reverses the decision, must direct the authority to serve a temporary exemption notice that comes into force on such date as the tribunal directs.

Grant or refusal of licences

63 Applications for licences

(1) An application for a licence must be made to the local housing authority.

(2) The application must be made in accordance with such requirements as the authority may specify.

(3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.

(4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).

(5) The appropriate national authority may by regulations make provision about the making of applications under this section.

(6) Such regulations may, in particular—
  (a) specify the manner and form in which applications are to be made;
  (b) require the applicant to give copies of the application, or information about it, to particular persons;
  (c) specify the information which is to be supplied in connection with applications;
  (d) specify the maximum fees which are to be charged (whether by specifying amounts or methods for calculating amounts);
  (e) specify cases in which no fees are to be charged or fees are to be refunded.

(7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—
  (a) all costs incurred by the authority in carrying out their functions under this Part, and
  (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter).

64 Grant or refusal of licence

(1) Where an application in respect of an HMO is made to the local housing authority under section 63, the authority must either—
  (a) grant a licence in accordance with subsection (2), or
  (b) refuse to grant a licence.

(2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—
  (a) to the applicant, or
  (b) to some other person, if both he and the applicant agree.

(3) The matters are—
  (a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in subsection (4) or that it can be made so suitable by the imposition of conditions under section 67;
  (b) that the proposed licence holder—
    (i) is a fit and proper person to be the licence holder, and
    (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;
  (c) that the proposed manager of the house is either—
    (i) the person having control of the house, or
    (ii) a person who is an agent or employee of the person having control of the house;
  (d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
  (e) that the proposed management arrangements for the house are otherwise satisfactory.

(4) The maximum number of households or persons referred to in subsection (3)(a) is—
  (a) the maximum number specified in the application, or
  (b) some other maximum number decided by the authority.

(5) Sections 65 and 66 apply for the purposes of this section.

65 Tests as to suitability for multiple occupation

(1) The local housing authority cannot be satisfied for the purposes of section 64(3)(a) that the house is reasonably suitable for occupation by a particular maximum number of households or persons if they consider that it fails to meet prescribed standards for occupation by that number of households or persons.

(2) But the authority may decide that the house is not reasonably suitable for occupation by a particular maximum number of households or persons even if it does meet prescribed standards for occupation by that number of households or persons.

(3) In this section "prescribed standards" means standards prescribed by regulations made by the appropriate national authority.

(4) The standards that may be so prescribed include—
  (a) standards as to the number, type and quality of—
    (i) bathrooms, toilets, washbasins and showers,
    (ii) areas for food storage, preparation and cooking, and
    (iii) laundry facilities,
  which should be available in particular circumstances; and

(b) standards as to the number, type and quality of other facilities or equipment which should be available in particular circumstances.

66 Tests for fitness etc. and satisfactory management arrangements

(1) In deciding for the purposes of section 64(3)(b) or (d) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—
- (a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);
- (b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
- (c) contravened any provision of the law relating to housing or of landlord and tenant law; or
- (d) acted otherwise than in accordance with any applicable code of practice approved under section 233.

(3) Evidence is within this subsection if—
- (a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and
- (b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

(4) For the purposes of section 64(3)(b) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

(5) In deciding for the purposes of section 64(3)(e) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

(6) The considerations are—
- (a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;
- (b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and
- (c) whether any proposed management structures and funding arrangements are suitable.

(7) Any reference in section 64(3)(c)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

67 Licence conditions

(1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following—
  (a) the management, use and occupation of the house concerned, and
  (b) its condition and contents.

(2) Those conditions may, in particular, include (so far as appropriate in the circumstances)—
  (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
  (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;
  (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
  (d) conditions requiring such facilities and equipment to be kept in repair and proper working order;
  (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;
  (f) conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233.

(3) A licence must include the conditions required by Schedule 4.

(4) As regards the relationship between the authority's power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 ("Part 1 functions")—
  (a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;
  (b) this does not, however, prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment within subsection (2)(c) above, even if the same result could be achieved by the exercise of Part 1 functions;
  (c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.

(5) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.

(6) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house.

68 Licences: general requirements and duration

(1) A licence may not relate to more than one HMO.

(2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.

(3) A licence—
  (a) comes into force at the time that is specified in or determined under the licence for this purpose, and
  (b) unless previously terminated by subsection (7) or revoked under section 70, continues in force for the period that is so specified or determined.

(4) That period must not end more than 5 years after—
  (a) the date on which the licence was granted, or
  (b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.

(5) Subsection (3)(b) applies even if, at any time during that period, the HMO concerned subsequently ceases to be one to which this Part applies.

(6) A licence may not be transferred to another person.

(7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

(8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part and Part 3 as if on that date a temporary exemption notice had been served in respect of the house under section 62.

(9) If, at any time during that period ("the initial period"), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 62.

(10) Subsections (6) to (8) of section 62 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice.

Variation and revocation of licences

69 Variation of licences

(1) The local housing authority may vary a licence—
  (a) if they do so with the agreement of the licence holder, or
  (b) if they consider that there has been a change of circumstances since the time when the licence was granted.

For this purpose "change of circumstances" includes any discovery of new information.

(2) Subsection (3) applies where the authority—
  (a) are considering whether to vary a licence under subsection (1)(b); and
  (b) are considering—

(i) what number of households or persons is appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or

(ii) the standards applicable to occupation by a particular number of households or persons.

(3) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to vary the licence as were applicable at the time when it was granted.

This is subject to subsection (4).

(4) If the standards—

(a) prescribed under section 65, and

(b) applicable at the time when the licence was granted,

have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.

(5) A variation made with the agreement of the licence holder takes effect at the time when it is made.

(6) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(7) The power to vary a licence under this section is exercisable by the authority either—

(a) on an application made by the licence holder or a relevant person, or

(b) on the authority's own initiative.

(8) In subsection (7) "relevant person" means any person (other than the licence holder)—

(a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or

(b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or

(c) on whom any restriction or obligation is imposed by the licence in accordance with section 67(5).

70 Revocation of licences

(1) The local housing authority may revoke a licence—

(a) if they do so with the agreement of the licence holder;

(b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holder or other person);

(c) in any of the cases mentioned in subsection (3) (circumstances relating to HMO concerned); or

(d) in any other circumstances prescribed by regulations made by the appropriate national authority.

(2) The cases referred to in subsection (1)(b) are as follows—

(a) where the authority consider that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;

(b) where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and

(c) where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.

Section 66(1) applies in relation to paragraph (b) or (c) above as it applies in relation to section 64(3)(b) or (d).

(3) The cases referred to in subsection (1)(c) are as follows—

(a) where the HMO to which the licence relates ceases to be an HMO to which this Part applies; and

(b) where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the HMO, refuse to grant a new licence to the licence holder on similar terms in respect of it.

(4) Subsection (5) applies where the authority are considering whether to revoke a licence by virtue of subsection (3)(b) on the grounds that the HMO is not reasonably suitable for the number of households or persons specified in the licence as the maximum number authorised to occupy the house.

(5) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to revoke the licence as were applicable at the time when it was granted.

This is subject to subsection (6).

(6) If the standards—

(a) prescribed under section 65, and

(b) applicable at the time when the licence was granted,

have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.

(7) A revocation made with the agreement of the licence holder takes effect at the time when it is made.

(8) Otherwise, a revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(9) The power to revoke a licence under this section is exercisable by the authority either—

(a) on an application made by the licence holder or a relevant person, or

(b) on the authority's own initiative.

(10) In subsection (9) "relevant person" means any person (other than the licence holder)—

(a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or

(b) who is a person managing or having control of that house (and does not fall within paragraph (a)), or

(c) on whom any restriction or obligation is imposed by the licence in accordance with section 67(5).

Procedure and appeals

71 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part.

Enforcement

72 Offences in relation to licensing of HMOs

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

(2) A person commits an offence if—
  (a) he is a person having control of or managing an HMO which is licensed under this Part,
  (b) he knowingly permits another person to occupy the house, and
  (c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3) A person commits an offence if—
  (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and
  (b) he fails to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
  (a) a notification had been duly given in respect of the house under section 62(1), or
  (b) an application for a licence had been duly made in respect of the house under section 63,

  and that notification or application was still effective (see subsection (8)).

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—
  (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
  (b) for permitting the person to occupy the house, or
  (c) for failing to comply with the condition,

  as the case may be.

(6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding £20,000.

(7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) For the purposes of subsection (4) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either—

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

(9) The conditions are—

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of a residential property tribunal) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(10) In subsection (9) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

73 Other consequences of operating unlicensed HMOs: rent repayment orders

(1) For the purposes of this section an HMO is an "unlicensed HMO" if—

(a) it is required to be licensed under this Part but is not so licensed, and

(b) neither of the conditions in subsection (2) is satisfied.

(2) The conditions are—

(a) that a notification has been duly given in respect of the HMO under section 62(1) and that notification is still effective (as defined by section 72(8));

(b) that an application for a licence has been duly made in respect of the HMO under section 63 and that application is still effective (as so defined).

(3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—

(a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of a part of an unlicensed HMO, or

(b) any other provision of such a tenancy or licence.

(4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 74.

(5) If—

(a) an application in respect of an HMO is made to a residential property tribunal by the local housing authority or an occupier of a part of the HMO, and

(b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8),

the tribunal may make an order (a "rent repayment order") requiring the appropriate person to pay to the applicant such amount in respect of the housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 74(2) to (8)).

(6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—

(a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 72(1) in relation to the HMO (whether or not he has been charged or convicted),

(b) that housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO during any period during which it appears to the tribunal that such an offence was being committed, and

(c) that the requirements of subsection (7) have been complied with in relation to the application.

(7) Those requirements are as follows—

(a) the authority must have served on the appropriate person a notice (a "notice of intended proceedings")—

(i) informing him that the authority are proposing to make an application under subsection (5),

(ii) setting out the reasons why they propose to do so,

(iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and

(iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;

(b) that period must have expired; and

(c) the authority must have considered any representations made to them within that period by the appropriate person.

(8) If the application is made by an occupier of a part of the HMO, the tribunal must be satisfied as to the following matters—

(a) that the appropriate person has been convicted of an offence under section 72(1) in relation to the HMO, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of a part or parts of the HMO,

(b) that the occupier paid, to a person having control of or managing the HMO, periodical payments in respect of occupation of part of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO, and

(c) that the application is made within the period of 12 months beginning with—

(i) the date of the conviction or order, or

(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

(9) Where a local housing authority serve a notice of intended proceedings on any person under this section, they must ensure—

(a) that a copy of the notice is received by the department of the authority responsible for administering the housing benefit to which the proceedings would relate; and

(b) that that department is subsequently kept informed of any matters relating to the proceedings that are likely to be of interest to it in connection with the administration of housing benefit.

(10) In this section—

"the appropriate person", in relation to any payment of housing benefit or periodical payment payable in connection with occupation of a part of an HMO, means the person who at the time of the payment was entitled to receive on his own account periodical payments payable in connection with such occupation;

"housing benefit" means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (c. 4);

"occupier", in relation to any periodical payment, means a person who was an occupier at the time of the payment, whether under a tenancy or licence or otherwise (and "occupation" has a corresponding meaning);

"periodical payments" means periodical payments in respect of which housing benefit may be paid by virtue of regulation 10 of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) or any corresponding provision replacing that regulation.

(11) For the purposes of this section an amount which—

(a) is not actually paid by an occupier but is used by him to discharge the whole or part of his liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and

(b) is not an amount of housing benefit,

is to be regarded as an amount paid by the occupier in respect of that periodical payment.

74 Further provisions about rent repayment orders

(1) This section applies in relation to rent repayment orders made by residential property tribunals under section 73(5).

(2) Where, on an application by the local housing authority, the tribunal is satisfied—

(a) that a person has been convicted of an offence under section 72(1) in relation to the HMO, and

(b) that housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with occupation of a part or parts of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority an amount equal to the total amount of housing benefit paid as mentioned in paragraph (b).

This is subject to subsections (3), (4) and (8).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (2) ("the rent total") is less than the total amount of housing benefit paid as mentioned in that paragraph, the amount required to be paid by virtue of a rent repayment order made in accordance with that subsection is limited to the rent total.

(4) A rent repayment order made in accordance with subsection (2) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(5) In a case where subsection (2) does not apply, the amount required to be paid by virtue of a rent repayment order under section 73(5) is to be such amount as the tribunal considers reasonable in the circumstances.

This is subject to subsections (6) to (8).

(6) In such a case the tribunal must, in particular, take into account the following matters—

(a) the total amount of relevant payments paid in connection with occupation of the HMO during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the HMO under section 72(1);

(b) the extent to which that total amount—

(i) consisted of, or derived from, payments of housing benefit, and

(ii) was actually received by the appropriate person;

(c) whether the appropriate person has at any time been convicted of an offence under section 72(1) in relation to the HMO;

(d) the conduct and financial circumstances of the appropriate person; and

(e) where the application is made by an occupier, the conduct of the occupier.

(7) In subsection (6) "relevant payments" means—

(a) in relation to an application by a local housing authority, payments of housing benefit or periodical payments payable by occupiers;

(b) in relation to an application by an occupier, periodical payments payable by the occupier, less any amount of housing benefit payable in respect of occupation of the part of the HMO occupied by him during the period in question.

(8) A rent repayment order may not require the payment of any amount which—

(a) (where the application is made by a local housing authority) is in respect of any time falling outside the period of 12 months mentioned in section 73(6)(a); or

(b) (where the application is made by an occupier) is in respect of any time falling outside the period of 12 months ending with the date of the occupier's application under section 73(5);

and the period to be taken into account under subsection (6)(a) above is restricted accordingly.

(9) Any amount payable to a local housing authority under a rent repayment order—

(a) does not, when recovered by the authority, constitute an amount of housing benefit recovered by them, and

(b) until recovered by them, is a legal charge on the HMO which is a local land charge.

(10) For the purpose of enforcing that 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, and 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) If the authority subsequently grant a licence under this Part or Part 3 in respect of the HMO to the appropriate person or any person acting on his behalf, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to pay to the authority any amount payable to them under the rent repayment order and not so far recovered by them; and

(b) to do so in such instalments as are specified in the licence.

(13) If the authority subsequently make a management order under Chapter 1 of Part 4 in respect of the HMO, the order may contain such provisions as the authority consider appropriate for the recovery of any amount payable to them under the rent repayment order and not so far recovered by them.

(14) Any amount payable to an occupier by virtue of a rent repayment order is recoverable by the occupier as a debt due to him from the appropriate person.

(15) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of this section and section 73, and in particular—

(a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of housing benefit or otherwise);

(b) for requiring or authorising amounts received by local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

(16) Section 73(10) and (11) apply for the purposes of this section as they apply for the purposes of section 73.

75 Other consequences of operating unlicensed HMOs: restriction on terminating tenancies

(1) No section 21 notice may be given in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains such an HMO.

(2) In this section—

a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (c. 50) (recovery of possession on termination of shorthold tenancy);

a "shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of that Act;

"unlicensed HMO" has the same meaning as in section 73 of this Act.

Supplementary provisions

76 Transitional arrangements relating to introduction and termination of licensing

(1) Subsection (2) applies where—

(a) an order under section 55(3) which prescribes a particular description of HMOs comes into force; or

(b) a designation under section 56 comes into force in relation to HMOs of a particular description.

(2) This Part applies in relation to the occupation by persons or households of such HMOs on or after the coming into force of the order or designation even if their occupation began before, or in pursuance of a contract made before, it came into force.

This is subject to subsections (3) to (5).

(3) Subsection (4) applies where—

(a) an HMO which is licensed under this Part, or a part of such an HMO, is occupied by more households or persons than the number permitted by the licence; and

(b) the occupation of all or any of those households or persons began before, or in pursuance of a contract made before, the licence came into force.

(4) In proceedings against a person for an offence under section 72(2) it is a defence that at the material time he was taking all reasonable steps to try to reduce the number of households or persons occupying the house to the number permitted by the licence.

(5) Subsection (4) does not apply if the licence came into force immediately after a previous licence in respect of the same HMO unless the occupation in question began before, or in pursuance of a contract made before, the coming into force of the original licence.

(6) An order under section 270 may make provision as regards the licensing under this Part of HMOs—

(a) which are registered immediately before the appointed day under a scheme to which section 347 (schemes containing control provisions) or 348B (schemes containing special control provisions) of the Housing Act 1985 (c. 68) applies, or

(b) in respect of which applications for registration under such a scheme are then pending.

(7) In subsection (6) "the appointed day" means the day appointed for the coming into force of section 61.

77 Meaning of "HMO"

In this Part—

(a) "HMO" means a house in multiple occupation as defined by sections 254 to 259, and

(b) references to an HMO include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

78 Index of defined expressions: Part 2

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

Expression	*Provision of this Act*
Anti-social behaviour	Section 57(5)

Expression	*Provision of this Act*
Appropriate national authority	Section 261(1)
Category 1 hazard	Section 2(1)
Category 2 hazard	Section 2(1)
District of local housing authority	Section 261(6)
HMO	Section 77
HMO to which this Part applies	Section 55(2)
Licence and licence holder	Section 61(6)
Licence (to occupy premises)	Section 262(9)
Local housing authority	Section 261(2) to (5)
Modifications	Section 250(7)
Occupier (and related expressions)	Section 262(6)
Person having control	Section 263(1) and (2) (and see also section 66(7))
Person having estate or interest	Section 262(8)
Person managing	Section 263(3)
Person involved in management	Section 263(5)
Residential property tribunal	Section 229
Tenant	Section 262(1) to (5).

PART 3

SELECTIVE LICENSING OF OTHER RESIDENTIAL ACCOMMODATION

Introductory

79 Licensing of houses to which this Part applies

(1) This Part provides for houses to be licensed by local housing authorities where—
  (a) they are houses to which this Part applies (see subsection (2)), and
  (b) they are required to be licensed under this Part (see section 85(1)).

(2) This Part applies to a house if—
  (a) it is in an area that is for the time being designated under section 80 as subject to selective licensing, and
  (b) the whole of it is occupied either—
    (i) under a single tenancy or licence that is not an exempt tenancy or licence under subsection (3) or (4), or

(ii) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under subsection (3) or (4).

(3) A tenancy or licence is an exempt tenancy or licence if it is granted by a body which is registered as a social landlord under Part 1 of the Housing Act 1996 (c. 52).

(4) In addition, the appropriate national authority may by order provide for a tenancy or licence to be an exempt tenancy or licence—
(a) if it falls within any description of tenancy or licence specified in the order; or
(b) in any other circumstances so specified.

(5) Every local housing authority have the following general duties—
(a) to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part; and
(b) to ensure that all applications for licences and other issues falling to be determined by them under this Part are determined within a reasonable time.

Designation of selective licensing areas

80 Designation of selective licensing areas

(1) A local housing authority may designate either—
(a) the area of their district, or
(b) an area in their district,
as subject to selective licensing, if the requirements of subsections (2) and (9) are met.

(2) The authority must consider that—
(a) the first or second set of general conditions mentioned in subsection (3) or (6), or
(b) any conditions specified in an order under subsection (7) as an additional set of conditions,
are satisfied in relation to the area.

(3) The first set of general conditions are—
(a) that the area is, or is likely to become, an area of low housing demand; and
(b) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to the improvement of the social or economic conditions in the area.

(4) In deciding whether an area is, or is likely to become, an area of low housing demand a local housing authority must take into account (among other matters)—
(a) the value of residential premises in the area, in comparison to the value of similar premises in other areas which the authority consider to be comparable (whether in terms of types of housing, local amenities, availability of transport or otherwise);

(b) the turnover of occupiers of residential premises;

(c) the number of residential premises which are available to buy or rent and the length of time for which they remain unoccupied.

(5) The appropriate national authority may by order amend subsection (4) by adding new matters to those for the time being mentioned in that subsection.

(6) The second set of general conditions are—

(a) that the area is experiencing a significant and persistent problem caused by anti-social behaviour;

(b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and

(c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.

"Private sector landlord" does not include a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52).

(7) The appropriate national authority may by order provide for any conditions specified in the order to apply as an additional set of conditions for the purposes of subsection (2).

(8) The conditions that may be specified include, in particular, conditions intended to permit a local housing authority to make a designation for the purpose of dealing with one or more specified problems affecting persons occupying Part 3 houses in the area.

"Specified" means specified in an order under subsection (7).

(9) Before making a designation the local housing authority must—

(a) take reasonable steps to consult persons who are likely to be affected by the designation; and

(b) consider any representations made in accordance with the consultation and not withdrawn.

(10) Section 81 applies for the purposes of this section.

81 Designations under section 80: further considerations

(1) This section applies to the power of a local housing authority to make designations under section 80.

(2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy.

(3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour, both—

(a) as regards combining licensing under this Part with other courses of action available to them, and

(b) as regards combining such licensing with measures taken by other persons.

(4) The authority must not make a particular designation under section 80 unless—

(a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and

(b) they consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).

82 Designation needs confirmation or general approval to be effective

(1) A designation of an area as subject to selective licensing cannot come into force unless—

(a) it has been confirmed by the appropriate national authority; or

(b) it falls within a description of designations in relation to which that authority has given a general approval in accordance with subsection (6).

(2) The appropriate national authority may either confirm, or refuse to confirm, a designation as it considers appropriate.

(3) If the appropriate national authority confirms a designation, the designation comes into force on a date specified for this purpose by that authority.

(4) That date must be no earlier than three months after the date on which the designation is confirmed.

(5) A general approval may be given in relation to a description of designations framed by reference to any matters or circumstances.

(6) Accordingly a general approval may (in particular) be given in relation to—

(a) designations made by a specified local housing authority;

(b) designations made by a local housing authority falling within a specified description of such authorities;

(c) designations relating to Part 3 houses of a specified description.

"Specified" means specified by the appropriate national authority in the approval.

(7) If, by virtue of a general approval, a designation does not need to be confirmed before it comes into force, the designation comes into force on the date specified for this purpose in the designation.

(8) That date must be no earlier than three months after the date on which the designation is made.

(9) Where a designation comes into force, this Part applies in relation to the occupation by persons of houses in the area on or after the coming into force of the designation even if their occupation began before, or in pursuance of a contract made before, it came into force.

83 Notification requirements relating to designations

(1) This section applies to a designation—

(a) when it is confirmed under section 82, or

(b) (if it is not required to be so confirmed) when it is made by the local housing authority.

(2) As soon as the designation is confirmed or made, the authority must publish in the prescribed manner a notice stating—
  (a) that the designation has been made,
  (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 82 applied to it (giving details of the approval in question),
  (c) the date on which the designation is to come into force, and
  (d) any other information which may be prescribed.

(3) After publication of a notice under subsection (2), and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements—
  (a) copies of the designation, and
  (b) such information relating to the designation as is prescribed.

(4) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

84 Duration, review and revocation of designations

(1) Unless previously revoked under subsection (4), a designation ceases to have effect at the time that is specified for this purpose in the designation.

(2) That time must be no later than five years after the date on which the designation comes into force.

(3) A local housing authority must from time to time review the operation of any designation made by them.

(4) If following a review they consider it appropriate to do so, the authority may revoke the designation.

(5) If they do revoke the designation, the designation ceases to have effect on the date that is specified by the authority for this purpose.

(6) On revoking a designation, the authority must publish notice of the revocation in such manner as is prescribed by regulations made by the appropriate national authority.

Houses required to be licensed

85 Requirement for Part 3 houses to be licensed

(1) Every Part 3 house must be licensed under this Part unless—
  (a) it is an HMO to which Part 2 applies (see section 55(2)), or
  (b) a temporary exemption notice is in force in relation to it under section 86, or
  (c) a management order is in force in relation to it under Chapter 1 or 2 of Part 4.

(2) A licence under this Part is a licence authorising occupation of the house concerned under one or more tenancies or licences within section 79(2)(b).

(3) Sections 87 to 90 deal with applications for licences, the granting or refusal of licences and the imposition of licence conditions.

(4) The local housing authority must take all reasonable steps to secure that applications for licences are made to them in respect of houses in their area which are required to be licensed under this Part but are not so licensed.

(5) In this Part, unless the context otherwise requires—
  (a) references to a Part 3 house are to a house to which this Part applies (see section 79(2)),
  (b) references to a licence are to a licence under this Part,
  (c) references to a licence holder are to be read accordingly, and
  (d) references to a house being (or not being) licensed under this Part are to its being (or not being) a house in respect of which a licence is in force under this Part.

86 Temporary exemption from licensing requirement

(1) This section applies where a person having control of or managing a Part 3 house which is required to be licensed under this Part (see section 85(1)) but is not so licensed, notifies the local housing authority of his intention to take particular steps with a view to securing that the house is no longer required to be licensed.

(2) The authority may, if they think fit, serve on that person a notice under this section ("a temporary exemption notice") in respect of the house.

(3) If a temporary exemption notice is served under this section, the house is (in accordance with section 85(1)) not required to be licensed under this Part during the period for which the notice is in force.

(4) A temporary exemption notice under this section is in force—
  (a) for the period of 3 months beginning with the date on which it is served, or
  (b) (in the case of a notice served by virtue of subsection (5)) for the period of 3 months after the date when the first notice ceases to be in force.

(5) If the authority—
  (a) receive a further notification under subsection (1), and
  (b) consider that there are exceptional circumstances that justify the service of a second temporary exemption notice in respect of the house that would take effect from the end of the period of 3 months applying to the first notice,

the authority may serve a second such notice on the person having control of or managing the house (but no further notice may be served by virtue of this subsection).

(6) If the authority decide not to serve a temporary exemption notice in response to a notification under subsection (1), they must without delay serve on the person concerned a notice informing him of—
  (a) the decision,
  (b) the reasons for it and the date on which it was made,
  (c) the right to appeal against the decision under subsection (7), and
  (d) the period within which an appeal may be made under that subsection.

(7) The person concerned may appeal to a residential property tribunal against the decision within the period of 28 days beginning with the date specified under subsection (6) as the date on which it was made.

(8) Such an appeal—
  (a) is to be by way of a re-hearing, but
  (b) may be determined having regard to matters of which the authority were unaware.

(9) The tribunal—
  (a) may confirm or reverse the decision of the authority, and
  (b) if it reverses the decision, must direct the authority to issue a temporary exemption notice with effect from such date as the tribunal directs.

Grant or refusal of licences

87 Applications for licences

(1) An application for a licence must be made to the local housing authority.

(2) The application must be made in accordance with such requirements as the authority may specify.

(3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.

(4) The power of the authority to specify requirements under this section is subject to any regulations made under subsection (5).

(5) The appropriate national authority may by regulations make provision about the making of applications under this section.

(6) Such regulations may, in particular—
  (a) specify the manner and form in which applications are to be made;
  (b) require the applicant to give copies of the application, or information about it, to particular persons;
  (c) specify the information which is to be supplied in connection with applications;
  (d) specify the maximum fees which may be charged (whether by specifying amounts or methods for calculating amounts);
  (e) specify cases in which no fees are to be charged or fees are to be refunded.

(7) When fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account—
  (a) all costs incurred by the authority in carrying out their functions under this Part, and
  (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).

88 Grant or refusal of licence

(1) Where an application in respect of a house is made to the local housing authority under section 87, the authority must either—
  (a) grant a licence in accordance with subsection (2), or
  (b) refuse to grant a licence.

(2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—
  (a) to the applicant, or
  (b) to some other person, if both he and the applicant agree.

(3) The matters are—
  (a) that the proposed licence holder—
    (i) is a fit and proper person to be the licence holder, and
    (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;
  (b) that the proposed manager of the house is either—
    (i) the person having control of the house, or
    (ii) a person who is an agent or employee of the person having control of the house;
  (c) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
  (d) that the proposed management arrangements for the house are otherwise satisfactory.

(4) Section 89 applies for the purposes of this section.

89 Tests for fitness etc. and satisfactory management arrangements

(1) In deciding for the purposes of section 88(3)(a) or (c) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—
  (a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);
  (b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; or
  (c) contravened any provision of the law relating to housing or of landlord and tenant law.

(3) Evidence is within this subsection if—
  (a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (c), and
  (b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

(4) For the purposes of section 88(3)(a) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

(5) In deciding for the purposes of section 88(3)(d) whether the proposed management arrangements for the house are otherwise satisfactory, the local

housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

(6) The considerations are—

(a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;

(b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and

(c) whether any proposed management structures and funding arrangements are suitable.

(7) Any reference in section 88(3)(b)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

90 Licence conditions

(1) A licence may include such conditions as the local housing authority consider appropriate for regulating the management, use or occupation of the house concerned.

(2) Those conditions may, in particular, include (so far as appropriate in the circumstances)—

(a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;

(b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house.

(3) A licence may also include—

(a) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed for the purposes of this section by regulations made by the appropriate national authority;

(b) conditions requiring such facilities and equipment to be kept in repair and proper working order;

(c) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence.

(4) A licence must include the conditions required by Schedule 4.

(5) As regards the relationship between the authority's power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 ("Part 1 functions")—

(a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;

(b) this does not, however, prevent the authority from imposing (in accordance with subsection (3)) licence conditions relating to the

installation or maintenance of facilities or equipment within subsection (3)(a) above, even if the same result could be achieved by the exercise of Part 1 functions;

(c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.

(6) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.

(7) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house.

91 Licences: general requirements and duration

(1) A licence may not relate to more than one Part 3 house.

(2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.

(3) A licence—

(a) comes into force at the time that is specified in or determined under the licence for this purpose, and

(b) unless previously terminated by subsection (7) or revoked under section 93, continues in force for the period that is so specified or determined.

(4) That period must not end more than 5 years after—

(a) the date on which the licence was granted, or

(b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.

(5) Subsection (3)(b) applies even if, at any time during that period, the house concerned subsequently ceases to be a Part 3 house or becomes an HMO to which Part 2 applies (see section 55(2)).

(6) A licence may not be transferred to another person.

(7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

(8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part as if on that date a temporary exemption notice had been served in respect of the house under section 86.

(9) If, at any time during that period ("the initial period"), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 86.

(10) Subsections (6) to (8) of section 86 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice.

Variation and revocation of licences

92 Variation of licences

(1) The local housing authority may vary a licence—
  (a) if they do so with the agreement of the licence holder, or
  (b) if they consider that there has been a change of circumstances since the time when the licence was granted.

For this purpose "change of circumstances" includes any discovery of new information.

(2) A variation made with the agreement of the licence holder takes effect at the time when it is made.

(3) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(4) The power to vary a licence under this section is exercisable by the authority either—
  (a) on an application made by the licence holder or a relevant person, or
  (b) on the authority's own initiative.

(5) In subsection (4) "relevant person" means any person (other than the licence holder)—
  (a) who has an estate or interest in the house concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
  (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
  (c) on whom any restriction or obligation is imposed by the licence in accordance with section 90(6).

93 Revocation of licences

(1) The local housing authority may revoke a licence—
  (a) if they do so with the agreement of the licence holder,
  (b) in any of the cases mentioned in subsection (2) (circumstances relating to licence holder or other person),
  (c) in any of the cases mentioned in subsection (3) (circumstances relating to house concerned), or
  (d) in any other circumstances prescribed by regulations made by the appropriate national authority.

(2) The cases referred to in subsection (1)(b) are as follows—
  (a) where the authority consider that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;
  (b) where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and
  (c) where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.

Section 89(1) applies in relation to paragraph (b) or (c) above as it applies in relation to section 88(3)(a) or (c).

(3) The cases referred to in subsection (1)(c) are as follows—
  (a) where the house to which the licence relates ceases to be a Part 3 house;
  (b) where a licence has been granted under Part 2 in respect of the house;
  (c) where the authority consider at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the house, refuse to grant a new licence to the licence holder on similar terms in respect of it.

(4) A revocation made with the agreement of the licence holder takes effect at the time when it is made.

(5) Otherwise, a revocation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

This is subject to subsection (6).

(6) A revocation made in a case within subsection (3)(b) cannot come into force before such time as would be the operative time for the purposes of subsection (5) under paragraph 35 of Schedule 5 on the assumption that paragraph 35 applied—
  (a) to an appeal against the Part 2 licence under paragraph 31 of the Schedule as it applies to an appeal under paragraph 32 of the Schedule, and
  (b) to the period for appealing against the Part 2 licence mentioned in paragraph 33(1) of the Schedule as it applies to the period mentioned in paragraph 33(2) of the Schedule.

(7) The power to revoke a licence under this section is exercisable by the authority either—
  (a) on an application made by the licence holder or a relevant person, or
  (b) on the authority's own initiative.

(8) In subsection (7) "relevant person" means any person (other than the licence holder)—
  (a) who has an estate or interest in the house concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
  (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
  (c) on whom any restriction or obligation is imposed by the licence in accordance with section 90(6).

Procedure and appeals

94 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part.

Enforcement

95 Offences in relation to licensing of houses under this Part

(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

(2) A person commits an offence if—
  (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and
  (b) he fails to comply with any condition of the licence.

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
  (a) a notification had been duly given in respect of the house under section 62(1) or 86(1), or
  (b) an application for a licence had been duly made in respect of the house under section 87,

and that notification or application was still effective (see subsection (7)).

(4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse—
  (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
  (b) for failing to comply with the condition,

as the case may be.

(5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £20,000.

(6) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) For the purposes of subsection (3) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either—
  (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
  (b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.

(8) The conditions are—
  (a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of a residential property tribunal) has not expired, or
  (b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(9) In subsection (8) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

96 Other consequences of operating unlicensed houses: rent repayment orders

(1) For the purposes of this section a house is an "unlicensed house" if—
  (a) it is required to be licensed under this Part but is not so licensed, and
  (b) neither of the conditions in subsection (2) is satisfied.

(2) The conditions are—
  (a) that a notification has been duly given in respect of the house under section 62(1) or 86(1) and that notification is still effective (as defined by section 95(7));
  (b) that an application for a licence has been duly made in respect of the house under section 87 and that application is still effective (as so defined).

(3) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of—
  (a) any provision requiring the payment of rent or the making of any other periodical payment in connection with any tenancy or licence of the whole or a part of an unlicensed house, or
  (b) any other provision of such a tenancy or licence.

(4) But amounts paid in respect of rent or other periodical payments payable in connection with such a tenancy or licence may be recovered in accordance with subsection (5) and section 97.

(5) If—
  (a) an application in respect of a house is made to a residential property tribunal by the local housing authority or an occupier of the whole or part of the house, and
  (b) the tribunal is satisfied as to the matters mentioned in subsection (6) or (8),

  the tribunal may make an order (a "rent repayment order") requiring the appropriate person to pay to the applicant such amount in respect of the housing benefit paid as mentioned in subsection (6)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (8)(b), as is specified in the order (see section 97(2) to (8)).

(6) If the application is made by the local housing authority, the tribunal must be satisfied as to the following matters—
  (a) that, at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (7), the appropriate person has committed an offence under section 95(1) in relation to the house (whether or not he has been charged or convicted),
  (b) that housing benefit has been paid (to any person) in respect of periodical payments payable in connection with the occupation of the whole or any part or parts of the house during any period during which it appears to the tribunal that such an offence was being committed, and
  (c) that the requirements of subsection (7) have been complied with in relation to the application.

(7) Those requirements are as follows—
  (a) the authority must have served on the appropriate person a notice (a "notice of intended proceedings")—

(i) informing him that the authority are proposing to make an application under subsection (5),
(ii) setting out the reasons why they propose to do so,
(iii) stating the amount that they will seek to recover under that subsection and how that amount is calculated, and
(iv) inviting him to make representations to them within a period specified in the notice of not less than 28 days;

(b) that period must have expired; and
(c) the authority must have considered any representations made to them within that period by the appropriate person.

(8) If the application is made by an occupier of the whole or part of the house, the tribunal must be satisfied as to the following matters—
(a) that the appropriate person has been convicted of an offence under section 95(1) in relation to the house, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of the whole or any part or parts of the house,
(b) that the occupier paid, to a person having control of or managing the house, periodical payments in respect of occupation of the whole or part of the house during any period during which it appears to the tribunal that such an offence was being committed in relation to the house, and
(c) that the application is made within the period of 12 months beginning with—
(i) the date of the conviction or order, or
(ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

(9) Where a local housing authority serve a notice of intended proceedings on any person under this section, they must ensure—
(a) that a copy of the notice is received by the department of the authority responsible for administering the housing benefit to which the proceedings would relate; and
(b) that that department is subsequently kept informed of any matters relating to the proceedings that are likely to be of interest to it in connection with the administration of housing benefit.

(10) In this section—
"the appropriate person", in relation to any payment of housing benefit or periodical payment payable in connection with occupation of the whole or a part of a house, means the person who at the time of the payment was entitled to receive on his own account periodical payments payable in connection with such occupation;
"housing benefit" means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (c. 4);
"occupier", in relation to any periodical payment, means a person who was an occupier at the time of the payment, whether under a tenancy or licence (and "occupation" has a corresponding meaning);
"periodical payments" means periodical payments in respect of which housing benefit may be paid by virtue of regulation 10 of the Housing

Benefit (General) Regulations 1987 (S.I. 1987/1971) or any corresponding provision replacing that regulation.

(11) For the purposes of this section an amount which—

(a) is not actually paid by an occupier but is used by him to discharge the whole or part of his liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and

(b) is not an amount of housing benefit,

is to be regarded as an amount paid by the occupier in respect of that periodical payment.

97 Further provisions about rent repayment orders

(1) This section applies in relation to orders made by residential property tribunals under section 96(5).

(2) Where, on an application by the local housing authority, the tribunal is satisfied—

(a) that a person has been convicted of an offence under section 95(1) in relation to the house, and

(b) that housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with occupation of the whole or any part or parts of the house during any period during which it appears to the tribunal that such an offence was being committed in relation to the house,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority an amount equal to the total amount of housing benefit paid as mentioned in paragraph (b).

This is subject to subsections (3), (4) and (8).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (2) ("the rent total") is less than the total amount of housing benefit paid as mentioned in that paragraph, the amount required to be paid by virtue of a rent repayment order made in accordance with that subsection is limited to the rent total.

(4) A rent repayment order made in accordance with subsection (2) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(5) In a case where subsection (2) does not apply, the amount required to be paid by virtue of a rent repayment order under section 96(5) is to be such amount as the tribunal considers reasonable in the circumstances.

This is subject to subsections (6) to (8).

(6) In such a case the tribunal must, in particular, take into account the following matters—

(a) the total amount of relevant payments paid in connection with occupation of the house during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the house under section 95(1);

(b) the extent to which that total amount—

(i) consisted of, or derived from, payments of housing benefit, and

(ii) was actually received by the appropriate person;

(c) whether the appropriate person has at any time been convicted of an offence under section 95(1) in relation to the house;

(d) the conduct and financial circumstances of the appropriate person; and

(e) where the application is made by an occupier, the conduct of the occupier.

(7) In subsection (6) "relevant payments" means—

(a) in relation to an application by a local housing authority, payments of housing benefit or periodical payments payable by occupiers;

(b) in relation to an application by an occupier, periodical payments payable by the occupier, less any amount of housing benefit payable in respect of occupation of the house, or (as the case may be) the part of it occupied by him, during the period in question.

(8) A rent repayment order may not require the payment of an amount which—

(a) (where the application is made by a local housing authority) is in respect of any time falling outside the period of 12 months mentioned in section 96(6)(a); or

(b) (where the application is made by an occupier) is in respect of any time falling outside the period of 12 months ending with the date of the occupier's application under section 96(5);

and the period to be taken into account under subsection (6)(a) above is restricted accordingly.

(9) Any amount payable to a local housing authority under a rent repayment order—

(a) does not, when recovered by the authority, constitute an amount of housing benefit recovered by them, and

(b) is, until recovered by them, a legal charge on the house which is a local land charge.

(10) For the purpose of enforcing that 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, and 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) If the authority subsequently grant a licence under Part 2 or this Part in respect of the house to the appropriate person or any person acting on his behalf, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to pay to the authority any amount payable to them under the rent repayment order and not so far recovered by them; and

(b) to do so in such instalments as are specified in the licence.

(13) If the authority subsequently make a management order under Chapter 1 of Part 4 in respect of the house, the order may contain such provisions as the authority consider appropriate for the recovery of any amount payable to them under the rent repayment order and not so far recovered by them.

(14) Any amount payable to an occupier by virtue of a rent repayment order is recoverable by the occupier as a debt due to him from the appropriate person.

(15) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of this section and section 96, and in particular—

(a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of housing benefit or otherwise);

(b) for requiring or authorising amounts received by local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

(16) Section 96(10) and (11) apply for the purposes of this section as they apply for the purposes of section 96.

98 Other consequences of operating unlicensed houses: restriction on terminating tenancies

(1) No section 21 notice may be given in relation to a shorthold tenancy of the whole or part of an unlicensed house so long as it remains such a house.

(2) In this section—

a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (c. 50) (recovery of possession on termination of shorthold tenancy);

a "shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of that Act;

"unlicensed house" has the same meaning as in section 96 of this Act.

Supplementary provisions

99 Meaning of "house" etc.

In this Part—

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;

"house" means a building or part of a building consisting of one or more dwellings;

and references to a house include (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

100 Index of defined expressions: Part 3

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

Expression	*Provision of this Act*
Anti-social behaviour	Section 57(5)
Appropriate national authority	Section 261(1)
Category 1 hazard	Section 2(1)

Expression	*Provision of this Act*
Category 2 hazard	Section 2(1)
District of local housing authority	Section 261(6)
Dwelling	Section 99
House	Section 99
Licence and licence holder	Section 85(5)
Licence (to occupy premises)	Section 262(9)
Local housing authority	Section 261(2) to (5)
Occupier (and related expressions)	Section 262(6)
Part 3 house	Section 85(5), together with section 79(2)
Person having control	Section 263(1) and (2) (and see also section 89(7))
Person having estate or interest	Section 262(8)
Person managing	Section 263(3)
Person involved in management	Section 263(5)
Residential property tribunal	Section 229
Tenant	Section 262(1) to (5).

PART 4

ADDITIONAL CONTROL PROVISIONS IN RELATION TO RESIDENTIAL ACCOMMODATION

CHAPTER 1

INTERIM AND FINAL MANAGEMENT ORDERS

Introductory

101 Interim and final management orders: introductory

(1) This Chapter deals with the making by a local housing authority of—
  (a) an interim management order (see section 102), or
  (b) a final management order (see section 113),
in respect of an HMO or a Part 3 house.

(2) Section 103 deals with the making of an interim management order in respect of a house to which that section applies.

(3) An interim management order is an order (expiring not more than 12 months after it is made) which is made for the purpose of securing that the following steps are taken in relation to the house—

(a) any immediate steps which the authority consider necessary to protect the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity, and

(b) any other steps which the authority think appropriate with a view to the proper management of the house pending the grant of a licence under Part 2 or 3 in respect of the house or the making of a final management order in respect of it (or, if appropriate, the revocation of the interim management order).

(4) A final management order is an order (expiring not more than 5 years after it is made) which is made for the purpose of securing the proper management of the house on a long-term basis in accordance with a management scheme contained in the order.

(5) In this Chapter any reference to "the house", in relation to an interim or final management order (other than an order under section 102(7)), is a reference to the HMO or Part 3 house to which the order relates.

(6) Subsection (5) has effect subject to sections 102(8) and 113(7) (exclusion of part occupied by resident landlord).

(7) In this Chapter "third party", in relation to a house, means any person who has an estate or interest in the house (other than an immediate landlord and any person who is a tenant under a lease granted under section 107(3)(c) or 116(3)(c)).

Interim management orders: making and operation of orders

102 Making of interim management orders

(1) A local housing authority—

(a) are under a duty to make an interim management order in respect of a house in a case within subsection (2) or (3), and

(b) have power to make an interim management order in respect of a house in a case within subsection (4) or (7).

(2) The authority must make an interim management order in respect of a house if—

(a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 (see section 61(1) or 85(1)) but is not so licensed, and

(b) they consider either—

(i) that there is no reasonable prospect of its being so licensed in the near future, or

(ii) that the health and safety condition is satisfied (see section 104).

(3) The authority must make an interim management order in respect of a house if—

(a) it is an HMO or a Part 3 house which is required to be licensed under Part 2 or Part 3 and is so licensed,

(b) they have revoked the licence concerned but the revocation is not yet in force, and

(c) they consider either—

(i) that, on the revocation coming into force, there will be no reasonable prospect of the house being so licensed in the near future, or

(ii) that, on the revocation coming into force, the health and safety condition will be satisfied (see section 104).

(4) The authority may make an interim management order in respect of a house if—

(a) it is an HMO other than one that is required to be licensed under Part 2, and

(b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them to make such an order, either in the terms of a draft order submitted by them or in those terms as varied by the tribunal;

and the authority may make such an order despite any pending appeal against the order of the tribunal (but this is without prejudice to any order that may be made on the disposal of any such appeal).

(5) The tribunal may only authorise the authority to make an interim management order under subsection (4) if it considers that the health and safety condition is satisfied (see section 104).

(6) In determining whether to authorise the authority to make an interim management order in respect of an HMO under subsection (4), the tribunal must have regard to the extent to which any applicable code of practice approved under section 233 has been complied with in respect of the HMO in the past.

(7) The authority may make an interim management order in respect of a house if—

(a) it is a house to which section 103 (special interim management orders) applies, and

(b) on an application by the authority to a residential property tribunal, the tribunal by order authorises them to make such an order, either in the terms of a draft order submitted by them or in those terms as varied by the tribunal;

and the authority may make such an order despite any pending appeal against the order of the tribunal (but this is without prejudice to any order that may be made on the disposal of any such appeal).

Subsections (2) to (6) of section 103 apply in relation to the power of a residential property tribunal to authorise the making of an interim management order under this subsection.

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

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

(9) Nothing in this section requires or authorises the making of an interim management order in respect of a house if—

(a) an interim management order has been previously made in respect of it, and

(b) the authority have not exercised any relevant function in respect of the house at any time after the making of the interim management order.

(10) In subsection (9) "relevant function" means the function of—
(a) granting a licence under Part 2 or 3,
(b) serving a temporary exemption notice under section 62 or section 86, or
(c) making a final management order under section 113.

103 Special interim management orders

(1) This section applies to a house if the whole of it is occupied either—
(a) under a single tenancy or licence that is not an exempt tenancy or licence under section 79(3) or (4), or
(b) under two or more tenancies or licences in respect of different dwellings contained in it, none of which is an exempt tenancy or licence under section 79(3) or (4).

(2) A residential property tribunal may only authorise the authority to make an interim management order in respect of such a house under section 102(7) if it considers that both of the following conditions are satisfied.

(3) The first condition is that the circumstances relating to the house fall within any category of circumstances prescribed for the purposes of this subsection by an order under subsection (5).

(4) The second condition is that the making of the order is necessary for the purpose of protecting the health, safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house.

(5) The appropriate national authority may by order—
(a) prescribe categories of circumstances for the purposes of subsection (3),
(b) provide for any of the provisions of this Act to apply in relation to houses to which this section applies, or interim or final management orders made in respect of them, with any modifications specified in the order.

(6) The categories prescribed by an order under subsection (5) are to reflect one or more of the following—
(a) the first or second set of general conditions mentioned in subsection (3) or (6) of section 80, or
(b) any additional set of conditions specified under subsection (7) of that section,

but (in each case) with such modifications as the appropriate national authority considers appropriate to adapt them to the circumstances of a single house.

(7) In this section "house" has the same meaning as in Part 3 (see section 99).

(8) In this Chapter—
(a) any reference to "the house", in relation to an interim management order under section 102(7), is a reference to the house to which the order relates, and
(b) any such reference includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

104 The health and safety condition

(1) This section explains what "the health and safety condition" is for the purposes of section 102.

(2) The health and safety condition is that the making of an interim management order is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

(3) A threat to evict persons occupying a house in order to avoid the house being required to be licensed under Part 2 may constitute a threat to the welfare of those persons for the purposes of subsection (2).
This does not affect the generality of that subsection.

(4) The health and safety condition is not to be regarded as satisfied for the purposes of section 102(2)(b)(ii) or (3)(c)(ii) where both of the conditions in subsections (5) and (6) are satisfied.

(5) The first condition is that the local housing authority either—
(a) (in a case within section 102(2)(b)(ii)) are required by section 5 (general duty to take enforcement action in respect of category 1 hazards) to take a course of action within subsection (2) of that section in relation to the house, or
(b) (in a case within section 102(3)(c)(ii)) consider that on the revocation coming into force they will be required to take such a course of action.

(6) The second condition is that the local housing authority consider that the health, safety or welfare of the persons in question would be adequately protected by taking that course of action.

105 Operation of interim management orders

(1) This section deals with the time when an interim management order comes into force or ceases to have effect.

(2) The order comes into force when it is made, unless it is made under section 102(3).

(3) If the order is made under section 102(3), it comes into force when the revocation of the licence comes into force.

(4) The order ceases to have effect at the end of the period of 12 months beginning with the date on which it is made, unless it ceases to have effect at some other time as mentioned below.

(5) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date.

(6) If the order is made under section 102(3)—
(a) it must include a provision for determining the date on which it will cease to have effect, and
(b) it accordingly ceases to have effect on the date so determined.

(7) That date must be no later than 12 months after the date on which the order comes into force.

(8) Subsections (9) and (10) apply where—

(a) a final management order ("the FMO") has been made under section 113 so as to replace the order ("the IMO"), but

(b) the FMO has not come into force because of an appeal to a residential property tribunal under paragraph 24 of Schedule 6 against the making of the FMO.

(9) If—

(a) the house would (but for the IMO being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and

(b) the date on which—

(i) the FMO,

(ii) any licence under Part 2 or 3, or

(iii) another interim management order,

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

the IMO continues in force until that later date.

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

(11) This section has effect subject to sections 111 and 112 (variation or revocation of orders by authority) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 24 or 28 of Schedule 6.

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

(1) A local housing authority who have made an interim management order in respect of a house must comply with the following provisions as soon as practicable after the order has come into force.

(2) The authority must first take any immediate steps which they consider to be necessary for the purpose of protecting the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

(3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the house pending—

(a) the grant of a licence or the making of a final management order in respect of the house as mentioned in subsection (4) or (5), or

(b) the revocation of the interim management order as mentioned in subsection (5).

(4) If the house would (but for the order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—

(a) to grant a licence under that Part in respect of the house, or

(b) to make a final management order in respect of it under section 113(1).

(5) If subsection (4) does not apply to the house, the authority must, after considering all the circumstances of the case, decide to take one of the following courses of action—
  (a) to make a final management order in respect of the house under section 113(3), or
  (b) to revoke the order under section 112 without taking any further action.

(6) In the following provisions, namely—
  (a) subsections (3) and (4), and
  (b) section 101(3)(b),
the reference to the grant of a licence under Part 2 or 3 in respect of the house includes a reference to serving a temporary exemption notice under section 62 or section 86 in respect of it (whether or not a notification is given under subsection (1) of that section).

(7) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes.

107 General effect of interim management orders

(1) This section applies while an interim management order is in force in relation to a house.

(2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duties under section 106(1) to (3) in respect of the house.

(3) The authority—
  (a) have the right to possession of the house (subject to the rights of existing occupiers preserved by section 124(3));
  (b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;
  (c) may create one or more of the following—
    (i) an interest in the house which, as far as possible, has all the incidents of a leasehold, or
    (ii) a right in the nature of a licence to occupy part of the house.

(4) But the authority may not under subsection (3)(c) create any interest or right in the nature of a lease or licence unless consent in writing has been given by the person who (but for the order) would have power to create the lease or licence in question.

(5) The authority—
  (a) do not under this section acquire any estate or interest in the house, and
  (b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest;
but, where the immediate landlord of the house or part of it (within the meaning of section 109) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.

(6) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—

(a) a lease in relation to which the authority are to be treated as the lessee under subsection (5), or

(b) a lease to which the authority become a party under section 124(4),

as if the authority were the legal owner of the premises (but this is subject to section 124(7) to (9)).

(7) None of the following, namely—

(a) the authority, or

(b) any person authorised under subsection (3)(b),

is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's duties under section 106(1) to (3) unless the act or omission is due to the negligence of the authority or any such person.

(8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which an interim management order is in force.

(9) An interim management order which has come into force is a local land charge.

(10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register of title in respect of such an order.

(11) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

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

(1) This section applies in relation to any interest or right created by the authority under section 107(3)(c).

(2) For the purposes of any enactment or rule of law—

(a) any interest created by the authority under section 107(3)(c)(i) is to be treated as if it were a legal lease, and

(b) any right created by the authority under section 107(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the premises,

despite the fact that the authority have no legal estate in the premises (see section 107(5)(a)).

(3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under section 107(3)(c)(i) as if the authority were the legal owner of the premises.

(4) References to leases and licences—

(a) in this Chapter, and

(b) in any other enactment,

accordingly include (where the context permits) interests and rights created by the authority under section 107(3)(c).

(5) The preceding provisions of this section have effect subject to—

(a) section 124(7) to (9), and

(b) any provision to the contrary contained in an order made by the appropriate national authority.

(6) In section 107(5)(b) the reference to leasing does not include the creation of interests under section 107(3)(c)(i).

(7) In this section—

"enactment" has the meaning given by section 107(11);

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

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

(1) This section applies in relation to—

(a) immediate landlords, and

(b) other persons with an estate or interest in the house,

while an interim management order is in force in relation to a house.

(2) A person who is an immediate landlord of the house or a part of it—

(a) is not entitled to receive—

(i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4), or

(ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any leases or licences granted by them under section 107(3)(c);

(b) may not exercise any rights or powers with respect to the management of the house or part; and

(c) may not create any of the following—

(i) any leasehold interest in the house or part (other than a lease of a reversion), or

(ii) any licence or other right to occupy it.

(3) However (subject to subsection (2)(c)) nothing in section 107 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.

(4) Nothing in section 107 or this section affects—

(a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or

(b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 107(5)) any rights or remedies available to the lessor under such a lease,

except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under section 107(3)(c).

(5) In proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the interim management order (including an order quashing it).

(6) For the purposes of this Chapter, as it applies in relation to an interim management order, a person is an "immediate landlord" of the house or a part of it if—

(a) he is an owner or lessee of the house or part, and

(b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4).

110 Financial arrangements while order is in force

(1) This section applies to relevant expenditure of a local housing authority who have made an interim management order.

(2) "Relevant expenditure" means expenditure reasonably incurred by the authority in connection with performing their duties under section 106(1) to (3) in respect of the house (including any premiums paid for insurance of the premises).

(3) Rent or other payments which the authority have collected or recovered, by virtue of this Chapter, from persons occupying the house may be used by the authority to meet—

(a) relevant expenditure, and

(b) any amounts of compensation payable to a third party by virtue of a decision of the authority under section 128.

(4) The authority must pay to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate—

(a) any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that subsection, and

(b) (where appropriate) interest on that amount at a reasonable rate fixed by the authority,

and such payments are to be made at such intervals as the authority consider appropriate.

(5) The interim management order may provide for—

(a) the rate of interest which is to apply for the purposes of paragraph (b) of subsection (4); and

(b) the intervals at which payments are to be made under that subsection.

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

(6) The authority must—

(a) keep full accounts of their income and expenditure in respect of the house; and

(b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.

(7) A relevant landlord may apply to a residential property tribunal for an order—

(a) declaring that an amount shown in the accounts as expenditure of the authority does not constitute expenditure reasonably incurred by the authority as mentioned in subsection (2);

(b) requiring the authority to make such financial adjustments (in the accounts and otherwise) as are necessary to reflect the tribunal's declaration.

(8) In this section—

"expenditure" includes administrative costs;

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

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

Interim management orders: variation and revocation

111 Variation of interim management orders

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

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

(3) The power to vary an order under this section is exercisable by the authority either—

(a) on an application made by a relevant person, or

(b) on the authority's own initiative.

(4) In this section "relevant person" means—

(a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or

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

112 Revocation of interim management orders

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

(a) if the order was made under section 102(2) or (3) and the house has ceased to be an HMO to which Part 2 applies or a Part 3 house (as the case may be);

(b) if the order was made under section 102(2) or (3) and a licence granted by them in respect of the house is due to come into force under Part 2 or Part 3 on the revocation of the order;

(c) if a final management order has been made by them in respect of the house so as to replace the order;

(d) if in any other circumstances the authority consider it appropriate to revoke the order.

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

(3) The power to revoke an order under this section is exercisable by the authority either—

(a) on an application made by a relevant person, or

(b) on the authority's own initiative.

(4) In this section "relevant person" means—

(a) any person who has an estate or interest in the house or part of it (but is not a tenant under a lease with an unexpired term of 3 years or less), or

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

Final management orders: making and operation of orders

113 Making of final management orders

(1) A local housing authority who have made an interim management order in respect of a house under section 102 ("the IMO")—

(a) have a duty to make a final management order in respect of the house in a case within subsection (2), and

(b) have power to make such an order in a case within subsection (3).

(2) The authority must make a final management order so as to replace the IMO as from its expiry date if—

(a) on that date the house would be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and

(b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the IMO as from that date.

(3) The authority may make a final management order so as to replace the IMO as from its expiry date if—

(a) on that date the house will not be one that would be required to be licensed as mentioned in subsection (2)(a), and

(b) the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

(4) A local housing authority who have made a final management order in respect of a house under this section ("the existing order")—

(a) have a duty to make a final management order in respect of the house in a case within subsection (5), and

(b) have power to make such an order in a case within subsection (6).

(5) The authority must make a new final management order so as to replace the existing order as from its expiry date if—

(a) on that date the condition in subsection (2)(a) will be satisfied in relation to the house, and

(b) the authority consider that they are unable to grant a licence under Part 2 or 3 in respect of the house that would replace the existing order as from that date.

(6) The authority may make a new final management order so as to replace the existing order as from its expiry date if—

(a) on that date the condition in subsection (3)(a) will be satisfied in relation to the house, and

(b) the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons within subsection (3)(b).

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

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

(8) In this section "expiry date", in relation to an interim or final management order, means—

(a) where the order is revoked, the date as from which it is revoked, and

(b) otherwise the date on which the order ceases to have effect under section 105 or 114;

and nothing in this section applies in relation to an interim or final management order which has been revoked on an appeal under Part 3 of Schedule 6.

114 Operation of final management orders

(1) This section deals with the time when a final management order comes into force or ceases to have effect.

(2) The order does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 27 of Schedule 6 (time when period for appealing expires without an appeal being made or when order is confirmed on appeal).

(3) The order ceases to have effect at the end of the period of 5 years beginning with the date on which it comes into force, unless it ceases to have effect at some other time as mentioned below.

(4) If the order provides that it is to cease to have effect on a date falling before the end of that period, it accordingly ceases to have effect on that date.

(5) Subsections (6) and (7) apply where—

(a) a new final management order ("the new order") has been made so as to replace the order ("the existing order"), but

(b) the new order has not come into force because of an appeal to a residential property tribunal under paragraph 24 of Schedule 6 against the making of that order.

(6) If—

(a) the house would (but for the existing order being in force) be required to be licensed under Part 2 or 3 of this Act (see section 61(1) or 85(1)), and

(b) the date on which—

(i) the new order, or

(ii) any licence under Part 2 or 3, or

(iii) a temporary exemption notice under section 62 or 86,

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

the existing order continues in force until that later date.

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

(8) This section has effect subject to sections 121 and 122 (variation or revocation of orders) and to the power of revocation exercisable by a residential property tribunal on an appeal made under paragraph 24 or 28 of Schedule 6.

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

(1) A local housing authority who have made a final management order in respect of a house must comply with the following provisions once the order has come into force.

(2) The local housing authority must take such steps as they consider appropriate with a view to the proper management of the house in accordance with the management scheme contained in the order (see section 119).

(3) The local housing authority must from time to time review—
  (a) the operation of the order and in particular the management scheme contained in it, and
  (b) whether keeping the order in force in relation to the house (with or without making any variations under section 121) is the best alternative available to them.

(4) If on a review the authority consider that any variations should be made under section 121, they must proceed to make those variations.

(5) If on a review the authority consider that either—
  (a) granting a licence under Part 2 or 3 in respect of the house, or
  (b) revoking the order under section 122 and taking no further action,

is the best alternative available to them, the authority must grant such a licence or revoke the order (as the case may be).

(6) For the avoidance of doubt, the authority's duty under subsection (2) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the house against destruction or damage by fire or other causes.

116 General effect of final management orders

(1) This section applies while a final management order is in force in relation to a house.

(2) The rights and powers conferred by subsection (3) are exercisable by the authority in performing their duty under section 115(2) in respect of the house.

(3) The authority—
  (a) have the right to possession of the house (subject to the rights of existing and other occupiers preserved by section 124(3) and (6));
  (b) have the right to do (and authorise a manager or other person to do) in relation to the house anything which a person having an estate or interest in the house would (but for the order) be entitled to do;

(c) may create one or more of the following—
(i) an interest in the house which, as far as possible, has all the incidents of a leasehold, or
(ii) a right in the nature of a licence to occupy part of the house.

(4) The powers of the authority under subsection (3)(c) are restricted as follows—
(a) they may not create any interest or right in the nature of a lease or licence—
(i) which is for a fixed term expiring after the date on which the order is due to expire, or
(ii) (subject to paragraph (b)) which is terminable by notice to quit, or an equivalent notice, of more than 4 weeks,
unless consent in writing has been given by the person who would (but for the order) have power to create the lease or licence in question;
(b) they may create an interest in the nature of an assured shorthold tenancy without any such consent so long as it is created before the beginning of the period of 6 months that ends with the date on which the order is due to expire.

(5) The authority—
(a) do not under this section acquire any estate or interest in the house, and
(b) accordingly are not entitled by virtue of this section to sell, lease, charge or make any other disposition of any such estate or interest;
but, where the immediate landlord of the house or part of it (within the meaning of section 118) is a lessee under a lease of the house or part, the authority is to be treated (subject to paragraph (a)) as if they were the lessee instead.

(6) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
(a) a lease in relation to which the authority are to be treated as the lessee under subsection (5), or
(b) a lease to which the authority become a party under section 124(4),
as if the authority were the legal owner of the premises (but this is subject to section 124(7) to (9)).

(7) None of the following, namely—
(a) the authority, or
(b) any person authorised under subsection (3)(b),
is liable to any person having an estate or interest in the house for anything done or omitted to be done in the performance (or intended performance) of the authority's duty under section 115(2) unless the act or omission is due to the negligence of the authority or any such person.

(8) References in any enactment to housing accommodation provided or managed by a local housing authority do not include a house in relation to which a final management order is in force.

(9) A final management order which has come into force is a local land charge.

(10) The authority may apply to the Chief Land Registrar for the entry of an appropriate restriction in the register in respect of such an order.

(11) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

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

(1) This section applies in relation to any interest or right created by the authority under section 116(3)(c).

(2) For the purposes of any enactment or rule of law—
  (a) any interest created by the authority under section 116(3)(c)(i) is to be treated as if it were a legal lease, and
  (b) any right created by the authority under section 116(3)(c)(ii) is to be treated as if it were a licence to occupy granted by the legal owner of the premises,

despite the fact that the authority have no legal estate in the premises (see section 116(5)(a)).

(3) Any enactment or rule of law relating to landlords and tenants or leases accordingly applies in relation to any interest created by the authority under section 116(3)(c)(i) as if the authority were the legal owner of the premises.

(4) References to leases and licences—
  (a) in this Chapter, and
  (b) in any other enactment,

accordingly include (where the context permits) interests and rights created by the authority under section 116(3)(c).

(5) The preceding provisions of this section have effect subject to—
  (a) section 124(7) to (9), and
  (b) any provision to the contrary contained in an order made by the appropriate national authority.

(6) In section 116(5)(b) the reference to leasing does not include the creation of interests under section 116(3)(c)(i).

(7) In this section—
  "enactment" has the meaning given by section 116(11);
  "legal lease" means a term of years absolute (within section 1(1)(b) of the Law of Property Act 1925 (c. 20)).

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

(1) This section applies in relation to—
  (a) immediate landlords, and
  (b) other persons with an estate or interest in the house,

while a final management order is in force in relation to a house.

(2) A person who is an immediate landlord of the house or a part of it—
  (a) is not entitled to receive—
    (i) any rents or other payments from persons occupying the house or part which are payable to the local housing authority by virtue of section 124(4), or
    (ii) any rents or other payments from persons occupying the house or part which are payable to the authority by virtue of any leases or licences granted by them under section 107(3)(c) or 116(3)(c);

(b) may not exercise any rights or powers with respect to the management of the house or part; and

(c) may not create any of the following—

(i) any leasehold interest in the house or part (other than a lease of a reversion), or

(ii) any licence or other right to occupy it.

(3) However (subject to subsection (2)(c)) nothing in section 116 or this section affects the ability of a person having an estate or interest in the house to make any disposition of that estate or interest.

(4) Nothing in section 116 or this section affects—

(a) the validity of any mortgage relating to the house or any rights or remedies available to the mortgagee under such a mortgage, or

(b) the validity of any lease of the house or part of it under which the immediate landlord is a lessee, or any superior lease, or (subject to section 116(5)) any rights or remedies available to the lessor under such a lease,

except to the extent that any of those rights or remedies would prevent the local housing authority from exercising their power under section 116(3)(c).

(5) In proceedings for the enforcement of any such rights or remedies the court may make such order as it thinks fit as regards the operation of the final management order (including an order quashing it).

(6) For the purposes of this Chapter, as it applies in relation to a final management order, a person is an "immediate landlord" of the house or a part of it if—

(a) he is an owner or lessee of the house or part, and

(b) (but for the order) he would be entitled to receive the rents or other payments from persons occupying the house or part which are payable to the authority by virtue of section 124(4).

119 Management schemes and accounts

(1) A final management order must contain a management scheme.

(2) A "management scheme" is a scheme setting out how the local housing authority are to carry out their duty under section 115(2) as respects the management of the house.

(3) A management scheme is to be divided into two parts.

(4) Part 1 of the scheme is to contain a plan giving details of the way in which the authority propose to manage the house, which must (in particular) include—

(a) details of any works that the authority intend to carry out in connection with the house;

(b) an estimate of the capital and other expenditure to be incurred by the authority in respect of the house while the order is in force;

(c) the amount of rent or other payments that the authority will seek to obtain having regard to the condition or expected condition of the house at any time while the order is in force;

(d) the amount of any compensation that is payable to a third party by virtue of a decision of the authority under section 128 in respect of any interference in consequence of the final management order with the rights of that person;

(e) provision as to the payment of any such compensation;

(f) provision as to the payment by the authority to a relevant landlord, from time to time, of amounts of rent or other payments that remain after the deduction of—

(i) relevant expenditure, and

(ii) any amounts of compensation payable as mentioned in paragraph (d);

(g) provision as to the manner in which the authority are to pay to a relevant landlord, on the termination of the final management order, any amounts of rent or other payments that remain after the deduction of—

(i) relevant expenditure, and

(ii) any amounts of compensation payable as mentioned in paragraph (d);

(h) provision as to the manner in which the authority are to pay, on the termination of the final management order, any outstanding balance of compensation payable to a third party.

(5) Part 1 of the scheme may also state—

(a) the authority's intentions as regards the use of rent or other payments to meet relevant expenditure;

(b) the authority's intentions as regards the payment to a relevant landlord (where appropriate) of interest on amounts within subsection (4)(f) and (g);

(c) that section 129(2) or (4) is not to apply in relation to an interim or (as the case may be) final management order that immediately preceded the final management order, and that instead the authority intend to use any balance or amount such as is mentioned in that subsection to meet—

(i) relevant expenditure incurred during the currency of the final management order, and

(ii) any compensation that may become payable to a third party;

(d) that section 129(3) or (5) is not to apply in relation to an interim or (as the case may be) final management order that immediately preceded the final management order ("the order"), and that instead the authority intend to use rent or other payments collected during the currency of the order to reimburse the authority in respect of any deficit or amount such as is mentioned in that subsection;

(e) the authority's intentions as regards the recovery from a relevant landlord, with or without interest, of any amount of relevant expenditure that cannot be reimbursed out of the total amount of rent or other payments.

(6) Part 2 of the scheme is to describe in general terms how the authority intend to address the matters which caused them to make the final management order and may, for example, include—

(a) descriptions of any steps that the authority intend to take to require persons occupying the house to comply with their obligations under any lease or licence or under the general law;

(b) descriptions of any repairs that are needed to the property and an explanation as to why those repairs are necessary.

(7) The authority must—

(a) keep full accounts of their income and expenditure in respect of the house; and

(b) afford to each relevant landlord, and to any other person who has an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.

(8) In this section—

"relevant expenditure" means expenditure reasonably incurred by the authority in connection with performing their duties under section 115(2) in respect of the house (including any reasonable administrative costs and any premiums paid for insurance of the premises);

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

"rent or other payments" means rent or other payments—

(a) which are payable under leases or licences or in respect of furniture within section 126(1), and

(b) which the authority have collected or recovered by virtue of this Chapter.

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

120 Enforcement of management scheme by relevant landlord

(1) An affected person may apply to a residential property tribunal for an order requiring the local housing authority to manage the whole or part of a house in accordance with the management scheme contained in a final management order made in respect of the house.

(2) On such an application the tribunal may, if it considers it appropriate to do so, make an order—

(a) requiring the local housing authority to manage the whole or part of the house in accordance with the management scheme, or

(b) revoking the final management order as from a date specified in the tribunal's order.

(3) An order under subsection (2) may—

(a) specify the steps which the authority are to take to manage the whole or part of the house in accordance with the management scheme,

(b) include provision varying the final management order,

(c) require the payment of money to an affected person by way of damages.

(4) In this section "affected person" means—

(a) a relevant landlord (within the meaning of section 119), and

(b) any third party to whom compensation is payable by virtue of a decision of the authority under section 128.

Final management orders: variation and revocation

121 Variation of final management orders

(1) The local housing authority may vary a final management order if they consider it appropriate to do so.

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

(3) The power to vary an order under this section is exercisable by the authority either—
  (a) on an application made by a relevant person, or
  (b) on the authority's own initiative.

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

122 Revocation of final management orders

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

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

(3) The power to revoke an order under this section is exercisable by the authority either—
  (a) on an application made by a relevant person, or
  (b) on the authority's own initiative.

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

Interim and final management orders: procedure and appeals

123 Procedural requirements and appeals

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

Interim and final management orders: other general provisions

124 Effect of management orders: occupiers

(1) This section applies to existing and new occupiers of a house in relation to which an interim or final management order is in force.

(2) In this section—

"existing occupier" means a person who, at the time when the order comes into force, either—

(a) (in the case of an HMO or a Part 3 house) is occupying part of the house and does not have an estate or interest in the whole of the house, or

(b) (in the case of a Part 3 house) is occupying the whole of the house,

but is not a new occupier within subsection (6);

"new occupier" means a person who, at a time when the order is in force, is occupying the whole or part of the house under a lease or licence granted under section 107(3)(c) or 116(3)(c).

(3) Sections 107 and 116 do not affect the rights or liabilities of an existing occupier under a lease or licence (whether in writing or not) under which he is occupying the whole or part of the house at the commencement date.

(4) Where the lessor or licensor under such a lease or licence—

(a) has an estate or interest in the house, and

(b) is not an existing occupier,

the lease or licence has effect while the order is in force as if the local housing authority were substituted in it for the lessor or licensor.

(5) Such a lease continues to have effect, as far as possible, as a lease despite the fact that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises.

(6) Section 116 does not affect the rights or liabilities of a new occupier who, in the case of a final management order, is occupying the whole or part of the house at the time when the order comes into force.

(7) The provisions which exclude local authority lettings from the Rent Acts, namely—

(a) sections 14 to 16 of the Rent Act 1977 (c. 42), and

(b) those sections as applied by Schedule 2 to the Rent (Agriculture) Act 1976 (c. 80) and section 5(2) to (4) of that Act,

do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.

(8) Section 1(2) of, and paragraph 12 of Part 1 of Schedule 1 to, the Housing Act 1988 (c. 50) (which exclude local authority lettings from Part 1 of that Act) do not apply to a lease or agreement under which an existing or new occupier is occupying the whole or part of the house.

(9) Nothing in this Chapter has the result that the authority are to be treated as the legal owner of any premises for the purposes of—
  (a) section 80 of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies); or
  (b) section 124 of the Housing Act 1996 (c. 52) (introductory tenancies).

(10) If, immediately before the coming into force of an interim or final management order, an existing occupier was occupying the whole or part of the house under—
  (a) a protected or statutory tenancy within the meaning of the Rent Act 1977 (c. 42),
  (b) a protected or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976 (c. 80), or
  (c) an assured tenancy or assured agricultural occupancy within the meaning of Part 1 of the Housing Act 1988 (c. 50),

nothing in this Chapter prevents the continuance of that tenancy or occupancy or affects the continued operation of any of those Acts in relation to the tenancy or occupancy after the coming into force of the order.

(11) In this section "the commencement date" means the date on which the order came into force (or, if that order was preceded by one or more orders under this Chapter, the date when the first order came into force).

125 Effect of management orders: agreements and legal proceedings

(1) An agreement or instrument within subsection (2) has effect, while an interim or final management order is in force, as if any rights or liabilities of the immediate landlord under the agreement or instrument were instead rights or liabilities of the local housing authority.

(2) An agreement or instrument is within this subsection if—
  (a) it is effective on the commencement date,
  (b) one of the parties to it is a person who is the immediate landlord of the house or a part of the house ("the relevant premises"),
  (c) it relates to the house, whether in connection with—
    (i) any management activities with respect to the relevant premises, or
    (ii) the provision of any services or facilities for persons occupying those premises,

  or otherwise,
  (d) it is specified for the purposes of this subsection in the order or falls within a description of agreements or instruments so specified, and
  (e) the authority serve a notice in writing on all the parties to it stating that subsection (1) is to apply to it.

(3) An agreement or instrument is not within subsection (2) if—
  (a) it is a lease within section 107(5) or 116(5), or
  (b) it relates to any disposition by the immediate landlord which is not precluded by section 109(2) or 118(2), or

(c) it is within section 124(4).

(4) Proceedings in respect of any cause of action within subsection (5) may, while an interim or final management order is in force, be instituted or continued by or against the local housing authority instead of by or against the immediate landlord.

(5) A cause of action is within this subsection if—

(a) it is a cause of action (of any nature) which accrued to or against the immediate landlord of the house or a part of the house before the commencement date,

(b) it relates to the house as mentioned in subsection (2)(c),

(c) it is specified for the purposes of this subsection in the order or falls within a description of causes of action so specified, and

(d) the authority serve a notice in writing on all interested parties stating that subsection (4) is to apply to it.

(6) If, by virtue of this section, the authority become subject to any liability to pay damages in respect of anything done (or omitted to be done) before the commencement date by or on behalf of the immediate landlord of the house or a part of it, the immediate landlord is liable to reimburse to the authority an amount equal to the amount of the damages paid by them.

(7) In this section—

"agreement" includes arrangement;

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

"management activities" includes repair, maintenance, improvement and insurance.

126 Effect of management orders: furniture

(1) Subsection (2) applies where, on the date on which an interim or final management order comes into force, there is furniture in the house which a person occupying the house has the right to use in consideration of periodical payments to a person who is an immediate landlord of the house or a part of it (whether the payments are included in the rent payable by the occupier or not).

(2) The right to possession of the furniture against all persons other than the occupier vests in the local housing authority on that date and remains vested in the authority while the order is in force.

(3) The local housing authority may renounce the right to possession of the furniture conferred by subsection (2) if—

(a) an application in writing has been made to them for the purpose by the person owning the furniture, and

(b) they renounce the right by notice in writing served on that person not less than two weeks before the notice takes effect.

(4) If the authority's right to possession of furniture conferred by subsection (2) is a right exercisable against more than one person interested in the furniture, any of those persons may apply to a residential property tribunal for an adjustment of their respective rights and liabilities as regards the furniture.

(5) On such an application the tribunal may make an order for such an adjustment of rights and liabilities, either unconditionally or subject to such terms and conditions, as it considers appropriate.

(6) The terms and conditions may, in particular, include terms and conditions about the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise.

(7) In this section "furniture" includes fittings and other articles.

127 Management orders: power to supply furniture

(1) The local housing authority may supply the house to which an interim or final management order relates with such furniture as they consider to be required.

(2) For the purposes of section 110 or a management scheme under section 119, any expenditure incurred by the authority under this section constitutes expenditure incurred by the authority in connection with performing their duty under section 106(3) or 115(2).

(3) In this section "furniture" includes fittings and other articles.

128 Compensation payable to third parties

(1) If a third party requests them to do so at any time, the local housing authority must consider whether an amount by way of compensation should be paid to him in respect of any interference with his rights in consequence of an interim or final management order.

(2) The authority must notify the third party of their decision as soon as practicable.

(3) Where the local housing authority decide under subsection (1) that compensation ought to be paid to a third party in consequence of a final management order, they must vary the management scheme contained in the order so as to specify the amount of the compensation to be paid and to make provision as to its payment.

129 Termination of management orders: financial arrangements

(1) This section applies where an interim or final management order ceases to have effect for any reason.

(2) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) exceeds the total amount of—

(a) the local housing authority's relevant expenditure, and

(b) any amounts of compensation payable to third parties by virtue of decisions of the authority under section 128,

the authority must, as soon as practicable after the termination date, pay the balance to such relevant landlord, or to such relevant landlords in such proportions, as they consider appropriate.

(3) If, on the termination date for an interim management order, the total amount of rent or other payments collected or recovered as mentioned in section 110(3) is less than the total amount of—

(a) the authority's relevant expenditure, and

(b) any amounts of compensation payable as mentioned in subsection (2)(b),

the difference is recoverable by the authority from such relevant landlord, or such relevant landlords in such proportions, as they consider appropriate.

(4) If, on the termination date for a final management order, any amount is payable to—

(a) a third party, or

(b) any relevant landlord in accordance with the management scheme under section 119,

that amount must be paid to that person by the local housing authority in the manner provided by the scheme.

(5) If, on the termination date for a final management order, any amount is payable to the local housing authority in accordance with the management scheme, that amount is recoverable by the local housing authority—

(a) from such relevant landlord, or

(b) from such relevant landlords in such proportions,

as is provided by the scheme.

(6) The provisions of any of subsections (2) to (5) do not, however, apply in relation to the order if —

(a) the order is followed by a final management order, and

(b) the management scheme contained in that final management order provides for that subsection not to apply in relation to the order (see section 119(5)(c) and (d)).

(7) Any sum recoverable by the authority under subsection (3) or (5) is, until recovered, a charge on the house.

(8) The charge takes effect on the termination date for the order as a legal charge which is a local land charge.

(9) For the purpose of enforcing the charge the authority have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(10) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.

(11) If the order is to be followed by a licence granted under Part 2 or 3 in respect of the house, the conditions contained in the licence may include a condition requiring the licence holder—

(a) to repay to the authority any amount recoverable by them under subsection (3) or (5), and

(b) to do so in such instalments as are specified in the licence.

(12) In this section—

"relevant expenditure" has the same meaning as in section 110;

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

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

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

130 Termination of management orders: leases, agreements and proceedings

(1) This section applies where—
  (a) an interim or final management order ceases to have effect for any reason, and
  (b) the order is not immediately followed by a further order under this Chapter.

(2) As from the termination date—
  (a) a lease or licence in which the local housing authority was substituted for another party by virtue of section 124(4) has effect with the substitution of the original party, or his successor in title, for the authority; and
  (b) an agreement which (in accordance with section 108 or 117) has effect as a lease or licence granted by the authority under section 107 or 116 has effect with the substitution of the relevant landlord for the authority.

(3) If the relevant landlord is a lessee, nothing in a superior lease imposes liability on him or any superior lessee in respect of anything done before the termination date in pursuance of the terms of an agreement to which subsection (2)(b) applies.

(4) If the condition in subsection (5) is met, any other agreement entered into by the authority in the performance of their duties under section 106(1) to (3) or 115(2) in respect of the house has effect, as from the termination date, with the substitution of the relevant landlord for the authority.

(5) The condition is that the authority serve a notice on the other party or parties to the agreement stating that subsection (4) applies to the agreement.

(6) If the condition in subsection (7) is met—
  (a) any rights or liabilities that were rights or liabilities of the authority immediately before the termination date by virtue of any provision of this Chapter or under any agreement to which subsection (4) applies are rights or liabilities of the relevant landlord instead, and
  (b) any proceedings instituted or continued by or against the authority by virtue of any such provision or agreement may be continued by or against the relevant landlord instead,

  as from the termination date.

(7) The condition is that the authority serve a notice on all interested parties stating that subsection (6) applies to the rights or liabilities or (as the case may be) the proceedings.

(8) If by virtue of this section a relevant landlord becomes subject to any liability to pay damages in respect of anything done (or omitted to be done) before the termination date by or on behalf of the authority, the authority are liable to reimburse to the relevant landlord an amount equal to the amount of the damages paid by him.

(9) Where two or more persons are relevant landlords in relation to different parts of the house, any reference in this section to "the relevant landlord" is to be

taken to refer to such one or more of them as is determined by agreement between them or (in default of agreement) by a residential property tribunal on an application made by any of them.

(10) This section applies to instruments as it applies to agreements.

(11) In this section—

"agreement" includes arrangement;

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

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

131 Management orders: power of entry to carry out work

(1) The right mentioned in subsection (2) is exercisable by the local housing authority, or any person authorised in writing by them, at any time when an interim or final management order is in force.

(2) That right is the right at all reasonable times to enter any part of the house for the purpose of carrying out works, and is exercisable as against any person having an estate or interest in the house.

(3) Where part of a house is excluded from the provisions of an interim or final management order under section 102(8) or 113(7), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of carrying out works in the part of the house which is subject to the order.

(4) If, after receiving reasonable notice of the intended action, any occupier of the whole or part of the house prevents any officer, employee, agent or contractor of the local housing authority from carrying out work in the house, a magistrates' court may order him to permit to be done on the premises anything which the authority consider to be necessary.

(5) A person who fails to comply with an order of the court under subsection (4) commits an offence.

(6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

CHAPTER 2

INTERIM AND FINAL EMPTY DWELLING MANAGEMENT ORDERS

Introductory

132 Empty dwelling management orders: introductory

(1) This Chapter deals with the making by a local housing authority of—

(a) an interim empty dwelling management order (an "interim EDMO"), or

(b) a final empty dwelling management order (a "final EDMO"),

in respect of a dwelling.

(2) An interim EDMO is an order made to enable a local housing authority, with the consent of the relevant proprietor, to take steps for the purpose of securing that a dwelling becomes and continues to be occupied.

(3) A final EDMO is an order made, in succession to an interim EDMO or a previous final EDMO, for the purpose of securing that a dwelling is occupied.

(4) In this Chapter—

(a) "dwelling" means—

(i) a building intended to be occupied as a separate dwelling, or

(ii) a part of a building intended to be occupied as a separate dwelling which may be entered otherwise than through any non-residential accommodation in the building;

(b) any reference to "the dwelling", in relation to an interim EDMO or a final EDMO, is a reference to the dwelling to which the order relates;

(c) "relevant proprietor", in relation to a dwelling, means—

(i) if the dwelling is let under one or more leases with an unexpired term of 7 years or more, the lessee under whichever of those leases has the shortest unexpired term; or

(ii) in any other case, the person who has the freehold estate in the dwelling;

(d) "third party", in relation to a dwelling, means any person who has an estate or interest in the dwelling (other than the relevant proprietor and any person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of Schedule 7); and

(e) any reference (however expressed) to rent or other payments in respect of occupation of a dwelling, includes any payments that the authority receive from persons in respect of unlawful occupation of the dwelling.

(5) In subsection (4)(c), the reference to an unexpired term of 7 years or more of a lease of a dwelling is—

(a) in relation to a dwelling in respect of which the local housing authority are considering making an interim EDMO, a reference to the unexpired term of the lease at the time the authority begin taking steps under section 133(3),

(b) in relation to a dwelling in respect of which an interim EDMO has been made, a reference to the unexpired term of the lease at the time the application for authorisation to make the interim EDMO was made under subsection (1) of that section, or

(c) in relation to a dwelling in respect of which a local housing authority are considering making or have made a final EDMO, a reference to the unexpired term of the lease at the time the application for authorisation to make the preceding interim EDMO was made under subsection (1) of that section.

"Preceding interim EDMO", in relation to a final EDMO, means the interim EDMO that immediately preceded the final EDMO or, where there has been a succession of final EDMOs, the interim EDMO that immediately preceded the first of them.

(6) Schedule 7 (which makes further provision regarding EDMOs) has effect.

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.

(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—

(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.

Final empty dwelling management orders

136 Making of final EDMOs

(1) A local housing authority may make a final EDMO to replace an interim EDMO made under section 133 if—

(a) they consider that, unless a final EDMO is made in respect of the dwelling, the dwelling is likely to become or remain unoccupied;

(b) where the dwelling is unoccupied, they have taken all such steps as it was appropriate for them to take under the interim EDMO with a view to securing the occupation of the dwelling.

(2) A local housing authority may make a new final EDMO so as to replace a final EDMO made under this section if—

(a) they consider that unless a new final EDMO is made in respect of the dwelling, the dwelling is likely to become or remain unoccupied; and

(b) where the dwelling is unoccupied, they have taken all such steps as it was appropriate for them to take under the existing final EDMO with a view to securing the occupation of the dwelling.

(3) In deciding whether to make a final EDMO in respect of a dwelling, the authority must take into account—
(a) the interests of the community, and
(b) the effect that the order will have on the rights of the relevant proprietor and may have on the rights of third parties.

(4) Before making a final EDMO under this section, the authority must consider whether compensation should be paid by them to any third party in respect of any interference in consequence of the order with the rights of the third party.

(5) Part 1 of Schedule 6 applies in relation to the making of a final EDMO in respect of a dwelling as it applies in relation to the making of a final management order in respect of a house, subject to the following modifications—
(a) paragraph 7(2) does not apply;
(b) paragraph 7(4)(c) is to be read as referring instead to the date on which the order is to cease to have effect in accordance with paragraph 1(3) and (4) or 9(3) to (5) of Schedule 7;
(c) in paragraph 7(6)—
(i) paragraph (a) is to be read as referring to Part 4 of Schedule 7, and
(ii) paragraph (b) is to be read as referring instead to paragraph 27(2) of Schedule 7;
(d) paragraph 7(6) in addition is to be read as requiring the notice under paragraph 7(5) also to contain—
(i) the decision of the authority as to whether to pay compensation to any third party,
(ii) the amount of any such compensation to be paid, and
(iii) information about the right of appeal against the decision under paragraph 34 of Schedule 7;
(e) paragraph 8(4) is to be read as defining "relevant person" as any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) or 10(3)(c) of Schedule 7).

137 Local housing authority's duties once final EDMO in force

(1) A local housing authority who have made a final EDMO in respect of a dwelling must comply with the following provisions once the order has come into force (see paragraph 9 of Schedule 7).

(2) The authority must take such steps as they consider appropriate for the purpose of securing that the dwelling is occupied.

(3) The authority must also take such other steps as they consider appropriate with a view to the proper management of the dwelling in accordance with the management scheme contained in the order (see paragraph 13 of Schedule 7).

(4) The authority must from time to time review—
(a) the operation of the order and in particular the management scheme contained in it,

(b) whether, if the dwelling is unoccupied, there are any steps which they could appropriately take under the order for the purpose of securing that the dwelling becomes occupied, and

(c) whether keeping the order in force in relation to the dwelling (with or without making any variations under paragraph 15 of Schedule 7) is necessary to secure that the dwelling becomes or remains occupied.

(5) If on a review the authority consider that any variations should be made under paragraph 15 of Schedule 7, they must proceed to make those variations.

(6) If the dwelling is unoccupied and on a review the authority conclude that either—

(a) there are no steps which they could appropriately take as mentioned in subsection (4)(b), or

(b) keeping the order in force is not necessary as mentioned in subsection (4)(c),

they must proceed to revoke the order.

(7) For the avoidance of doubt, the authority's duty under subsection (3) includes taking such steps as are necessary to ensure that, while the order is in force, reasonable provision is made for insurance of the dwelling against destruction or damage by fire or other causes.

Compensation

138 Compensation payable to third parties

(1) A third party may, while an interim EDMO is in force in respect of a dwelling, apply to a residential property tribunal for an order requiring the local housing authority to pay to him compensation in respect of any interference in consequence of the order with his rights in respect of the dwelling.

(2) On such an application, the tribunal may, if it thinks fit, make an order requiring the authority to pay to the third party an amount by way of compensation in respect of any such interference.

(3) If a third party requests them to do so at any time, the local housing authority must consider whether an amount by way of compensation should be paid to him in respect of any interference in consequence of a final EDMO with his rights.

(4) The authority must notify the third party of their decision as soon as practicable.

(5) Where the local housing authority decide under subsection (3) that compensation ought to be paid to a third party, they must vary the management scheme contained in the order so as to specify the amount of the compensation to be paid and to make provision as to its payment.

CHAPTER 3

OVERCROWDING NOTICES

139 Service of overcrowding notices

(1) This Chapter applies to any HMO—

(a) in relation to which no interim or final management order is in force; and

(b) which is not required to be licensed under Part 2.

(2) The local housing authority may serve an overcrowding notice on one or more relevant persons if, having regard to the rooms available, it considers that an excessive number of persons is being, or is likely to be, accommodated in the HMO concerned.

(3) The authority must, at least 7 days before serving an overcrowding notice—

(a) inform in writing every relevant person (whether or not the person on whom the authority is to serve the notice) of their intention to serve the notice; and

(b) ensure that, so far as is reasonably possible, every occupier of the HMO concerned is informed of the authority's intention.

(4) The authority must also give the persons informed under subsection (3) an opportunity of making representations about the proposal to serve an overcrowding notice.

(5) An overcrowding notice becomes operative, if no appeal is brought under section 143, at the end of the period of 21 days from the date of service of the notice.

(6) If no appeal is brought under section 143, an overcrowding notice is final and conclusive as to matters which could have been raised on such an appeal.

(7) A person who contravenes an overcrowding notice commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(8) In proceedings for an offence under subsection (7) it is a defence that the person had a reasonable excuse for contravening the notice.

(9) In this section "relevant person" means a person who is, to the knowledge of the local housing authority—

(a) a person having an estate or interest in the HMO concerned, or

(b) a person managing or having control of it.

140 Contents of overcrowding notices

(1) An overcrowding notice must state in relation to each room in the HMO concerned—

(a) what the local housing authority consider to be the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time; or

(b) that the local housing authority consider that the room is unsuitable to be occupied as sleeping accommodation.

(2) An overcrowding notice may specify special maxima applicable where some or all of the persons occupying a room are under such age as may be specified in the notice.

(3) An overcrowding notice must contain—

(a) the requirement prescribed by section 141 (not to permit excessive number of persons to sleep in the house in multiple occupation); or

(b) the requirement prescribed by section 142 (not to admit new residents if number of persons is excessive).

(4) The local housing authority may at any time—

(a) withdraw an overcrowding notice which has been served on any person and which contains the requirement prescribed by section 142, and

(b) serve on him instead an overcrowding notice containing the requirement prescribed by section 141.

141 Requirement as to overcrowding generally

(1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from—

(a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice; or

(b) permitting persons to occupy the HMO as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as husband and wife sleeping in the same room.

(2) For the purposes of subsection (1)(b)—

(a) children under the age of 10 are to be disregarded; and

(b) it must be assumed that the persons occupying the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

142 Requirement as to new residents

(1) The requirement prescribed by this section is that the person on whom the notice is served must refrain from—

(a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice; or

(b) permitting a new resident to occupy any part of the HMO as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as husband and wife sleeping in the same room.

(2) In subsection (1) "new resident" means a person who was not an occupier of the HMO immediately before the notice was served.

(3) For the purposes of subsection (1)(b)—

(a) children under the age of 10 are to be disregarded; and

(b) it must be assumed that the persons occupying any part of the HMO as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

143 Appeals against overcrowding notices

(1) A person aggrieved by an overcrowding notice may appeal to a residential property tribunal within the period of 21 days beginning with the date of service of the notice.

(2) Such an appeal—

(a) is to be by way of a re-hearing, but
(b) may be determined having regard to matters of which the authority were unaware.

(3) On an appeal the tribunal may by order confirm, quash or vary the notice.

(4) If an appeal is brought, the notice does not become operative until—
(a) a decision is given on the appeal which confirms the notice and the period within which an appeal to the Lands Tribunal may be brought expires without any such appeal having been brought; or
(b) if an appeal is brought to the Lands Tribunal, a decision is given on the appeal which confirms the notice.

(5) For the purposes of subsection (4)—
(a) the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against; and
(b) references to a decision which confirms the notice are to a decision which confirms it with or without variation.

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

144 Revocation and variation of overcrowding notices

(1) The local housing authority may at any time, on the application of a relevant person—
(a) revoke an overcrowding notice; or
(b) vary it so as to allow more people to be accommodated in the HMO concerned.

(2) The applicant may appeal to a residential property tribunal if the local housing authority—
(a) refuse an application under subsection (1); or
(b) do not notify the applicant of their decision within the period of 35 days beginning with the making of the application (or within such further period as the applicant may in writing allow).

(3) An appeal under subsection (2) must be made within—
(a) the period of 21 days beginning with the date when the applicant is notified by the authority of their decision to refuse the application, or
(b) the period of 21 days immediately following the end of the period (or further period) applying for the purposes of paragraph (b) of that subsection,

as the case may be.

(4) Section 143(2) applies to such an appeal as it applies to an appeal under that section.

(5) On an appeal the tribunal may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.

(6) A residential property tribunal may allow an appeal to be made to it after the end of the 21-day period mentioned in subsection (3)(a) or (b) if it is satisfied

that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal).

(7) In this section "relevant person" means—
  (a) any person who has an estate or interest in the HMO concerned, or
  (b) any other person who is a person managing or having control of it.

CHAPTER 4

SUPPLEMENTARY PROVISIONS

145 Supplementary provisions

(1) The appropriate national authority may by regulations make such provision as it considers appropriate for supplementing the provisions of Chapter 1 or 2 in relation to cases where a local housing authority are to be treated as the lessee under a lease under—
  (a) section 107(5) or 116(5), or
  (b) paragraph 2(6) or 10(6) of Schedule 7.

(2) Regulations under this section may, in particular, make provision—
  (a) as respects rights and liabilities in such cases of—
    (i) the authority,
    (ii) the person who (apart from the relevant provision mentioned in subsection (1)) is the lessee under the lease, or
    (iii) other persons having an estate or interest in the premises demised under the lease;
  (b) requiring the authority to give copies to the person mentioned in paragraph (a)(ii) of notices and other documents served on them in connection with the lease;
  (c) for treating things done by or in relation to the authority as done by or in relation to that person, or vice versa.

146 Interpretation and modification of this Part

(1) In this Part—
  "HMO" means a house in multiple occupation as defined by sections 254 to 259,
  "Part 3 house" means a house to which Part 3 of this Act applies (see section 79(2)),
and any reference to an HMO or Part 3 house includes (where the context permits) a reference to any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

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

(3) The appropriate national authority may by regulations provide for—
  (a) any provision of this Part, or
  (b) section 263 (in its operation for the purposes of any such provision),
to have effect in relation to a section 257 HMO with such modifications as are prescribed by the regulations.

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

147 Index of defined expressions: Part 4

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

Expression	*Provision of this Act*
Appropriate national authority	Section 261(1)
Dwelling	Section 132(4)(a) and (b)
Final EDMO	Section 132(1)(b)
Final management order	Section 101(4)
Health	Section 2(5)
HMO	Section 146(1)
The house	Section 101(5) or 103(8)
Immediate landlord	Section 109(6) or 118(6)
Interim EDMO	Section 132(1)(a)
Interim management order	Section 101(3)
Landlord	Section 262(3)
Lease, lessee, etc.	Section 262(1) to (4)
Licence (to occupy premises)	Section 262(9)
Local housing authority	Section 261(2) to (5)
Modifications	Section 250(7)
Mortgage, mortgagee	Section 146(2)
Occupier (and related expressions)	Section 262(6)
Owner	Section 262(7)
Part 3 house	Section 146(1)
Person having control	Section 263(1) and (2)
Person having estate or interest	Section 262(8)
Person managing	Section 263(3)
Relevant proprietor	Section 132(4)(c) and (5)
Rent or other payments (in Chapter 2)	Section 132(4)(e)

Expression	*Provision of this Act*
Residential property tribunal	Section 229
Tenancy, tenant, etc.	Section 262(1) to (5)
Third party (in Chapter 1)	Section 101(7)
Third party (in Chapter 2)	Section 132(4)(d).

PART 5

HOME INFORMATION PACKS

Preliminary

148 Meaning of "residential property" and "home information pack"

(1) In this Part—

"residential property" means premises in England and Wales consisting of a single dwelling-house, including any ancillary land; and

"dwelling-house" means a building or part of a building occupied or intended to be occupied as a separate dwelling (and includes one that is being or is to be constructed).

(2) References in this Part to a home information pack, in relation to a residential property, are to a collection of documents relating to the property or the terms on which it is or may become available for sale.

149 Meaning of "on the market" and related expressions

(1) In this Part references to "the market" are to the residential property market in England and Wales.

(2) A residential property is put on the market when the fact that it is or may become available for sale is, with the intention of marketing the property, first made public in England and Wales by or on behalf of the seller.

(3) A residential property which has been put on the market is to be regarded as remaining on the market until it is taken off the market or sold.

(4) A fact is made public when it is advertised or otherwise communicated (in whatever form and by whatever means) to the public or to a section of the public.

150 Acting as estate agent

(1) A person acts as estate agent for the seller of a residential property if he does anything, in the course of a business in England and Wales, in pursuance of marketing instructions from the seller.

(2) For this purpose—

"business in England and Wales" means a business carried on (in whole or in part) from a place in England and Wales; and

"marketing instructions" means instructions to carry out any activities with a view to—

(a) effecting the introduction to the seller of a person wishing to buy the property; or

(b) selling the property by auction or tender.

(3) It is immaterial for the purposes of this section whether or not a person describes himself as an estate agent.

Responsibility for marketing residential properties

151 Responsibility for marketing: general

(1) References in this Part to a responsible person, in relation to a residential property, are to any person who is for the time being responsible for marketing the property.

(2) Sections 152 and 153 identify for the purposes of this Part—

(a) the person or persons who are responsible for marketing a residential property which is on the market ("the property"); and

(b) when the responsibility of any such person arises and ceases.

(3) Only the seller or a person acting as estate agent for the seller may be responsible for marketing the property.

(4) A person may be responsible for marketing the property on more than one occasion.

152 Responsibility of person acting as estate agent

(1) A person acting as estate agent becomes responsible for marketing the property when action taken by him or on his behalf—

(a) puts the property on the market; or

(b) makes public the fact that the property is on the market.

(2) That responsibility ceases when the following conditions are satisfied, namely—

(a) his contract with the seller is terminated (whether by the withdrawal of his instructions or otherwise);

(b) he has ceased to take any action which makes public the fact that the property is on the market; and

(c) any such action being taken on his behalf has ceased.

(3) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

153 Responsibility of the seller

(1) The seller becomes responsible for marketing the property when action taken by him or on his behalf—

(a) puts the property on the market; or

(b) makes public the fact that the property is on the market.

(2) That responsibility ceases when the following conditions are satisfied, namely—

(a) there is at least one person acting as his estate agent who is responsible for marketing the property;
(b) the seller has ceased to take any action which makes public the fact that the property is on the market; and
(c) any such action being taken on the seller's behalf has ceased.

(3) In this section the references to action taken on behalf of the seller exclude action taken by or on behalf of a person acting as his estate agent.

(4) Any responsibility arising under this section also ceases when the property is taken off the market or sold.

Duties of a responsible person where a property is on the market

154 Application of sections 155 to 158

(1) Where a residential property is on the market, a person responsible for marketing the property is subject to the duties relating to home information packs that are imposed by sections 155 to 158 until his responsibility ceases.

(2) Each of those duties is subject to any exception relating to that duty which is provided for in those sections.

(3) The duty under section 156(1) is also subject to any condition imposed under section 157.

155 Duty to have a home information pack

(1) It is the duty of a responsible person to have in his possession or under his control a home information pack for the property which complies with the requirements of any regulations under section 163.

(2) That duty does not apply where the responsible person is the seller at any time when—
(a) there is another person who is responsible for marketing the property under section 152; and
(b) the seller believes on reasonable grounds that the other responsible person has a home information pack for the property in his possession or under his control which complies with the requirements of any regulations under section 163.

156 Duty to provide copy of home information pack on request

(1) Where a potential buyer makes a request to a responsible person for a copy of the home information pack, or of a document (or part of a document) which is or ought to be included in that pack, it is the duty of the responsible person to comply with that request within the permitted period.

(2) The responsible person does not comply with that duty unless—
(a) he provides the potential buyer with a document which is—
(i) a copy of the home information pack for the property as it stands at the time when the document is provided, or
(ii) a copy of a document (or part of a document) which is included in that pack,
as the case may be; and

(b) that pack or document complies with the requirements of any regulations under section 163 at that time.

(3) In subsection (2) "the home information pack" means the home information pack intended by the responsible person to be the one required by section 155.

(4) That duty does not apply if, before the end of the permitted period, the responsible person believes on reasonable grounds that the person making the request—

(a) is unlikely to have sufficient means to buy the property in question;

(b) is not genuinely interested in buying a property of a general description which applies to the property; or

(c) is not a person to whom the seller is likely to be prepared to sell the property.

Nothing in this subsection authorises the doing of anything which constitutes an unlawful act of discrimination.

(5) Subsection (4) does not apply if the responsible person knows or suspects that the person making the request is an officer of an enforcement authority.

(6) That duty does not apply where the responsible person is the seller if, when the request is made, the duty under section 155 does not (by virtue of subsection (2) of that section) apply to him.

(7) But where the duty under this section is excluded by subsection (6), it is the duty of the seller to take reasonable steps to inform the potential buyer that the request should be made to the other person.

(8) The responsible person may charge a sum not exceeding the reasonable cost of making and, if requested, sending a paper copy of the pack or document.

(9) The permitted period for the purposes of this section is (subject to section 157(5)) the period of 14 days beginning with the day on which the request is made.

(10) If the responsible person ceases to be responsible for marketing the property before the end of the permitted period (whether because the property has been taken off the market or sold or for any other reason), he ceases to be under any duty to comply with the request.

(11) A person does not comply with the duty under this section by providing a copy in electronic form unless the potential buyer consents to receiving it in that form.

Register of home condition reports

157 Section 156 (1) duty: imposition of conditions

(1) A potential buyer who has made a request to which section 156(1) applies may be required to comply with either or both of the following conditions before any copy is provided.

(2) The potential buyer may be required to pay a charge authorised by section 156(8).

(3) The potential buyer may be required to accept any terms specified in writing which—

(a) are proposed by the seller or in pursuance of his instructions; and
(b) relate to the use or disclosure of the copy (or any information contained in or derived from it).

(4) A condition is only effective if it is notified to the potential buyer before the end of the period of 14 days beginning with the day on which the request is made.

(5) Where the potential buyer has been so notified of either or both of the conditions authorised by this section, the permitted period for the purposes of section 156 is the period of 14 days beginning with—
(a) where one condition is involved, the day on which the potential buyer complies with it by—
(i) making the payment demanded, or
(ii) accepting the terms proposed (or such other terms as may be agreed between the seller and the potential buyer in substitution for those proposed),
as the case may be; or
(b) where both conditions are involved, the day (or the later of the days) on which the potential buyer complies with them by taking the action mentioned in paragraph (a)(i) and (ii).

158 Duty to ensure authenticity of documents in other situations

(1) Where a responsible person provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be—
(a) a copy of the home information pack for the property, or
(b) a copy of a document (or part of a document) included in that pack,
the responsible person is under a duty to ensure that the document is authentic.

(2) A document is not authentic for the purposes of subsection (1) unless, at the time when it is provided or inspected—
(a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and
(b) that pack or document complies with the requirements of any regulations under section 163.

(3) In subsection (2) "the home information pack" means the pack intended by the responsible person to be the one required by section 155.

(4) The duty under this section does not apply to anything provided in pursuance of the duty under section 156.

Other duties of person acting as estate agent

159 Other duties of person acting as estate agent

(1) This section applies to a person acting as estate agent for the seller of a residential property where—
(a) the property is not on the market; or
(b) the property is on the market but the person so acting is not a person responsible for marketing the property.

(2) It is the duty of a person to whom this section applies to have in his possession or under his control, when any qualifying action is taken by him or on his behalf, a home information pack for the property which complies with the requirements of any regulations under section 163.

(3) In subsection (2) "qualifying action" means action taken with the intention of marketing the property which—
  (a) communicates to any person in England and Wales the fact that the property is or may become available for sale; but
  (b) does not put the property on the market or make public the fact that the property is on the market.

(4) Where a person to whom this section applies provides a potential buyer with, or allows a potential buyer to inspect, any document purporting to be—
  (a) a copy of the home information pack for the property; or
  (b) a copy of a document (or part of a document) included in that pack;

it is his duty to ensure that it is an authentic copy.

(5) A document is not authentic for the purposes of subsection (4) unless, at the time when it is provided or inspected—
  (a) it is a copy of the home information pack for the property or a document (or part of a document) included in that pack, as the case may be; and
  (b) that pack or document complies with the requirements of any regulations under section 163.

(6) In subsection (5) "the home information pack" means the home information pack intended by the person to whom this section applies to be the one required by subsection (2).

Exceptions from the duties

160 Residential properties not available with vacant possession

(1) The duties under sections 155 to 159 do not apply in relation to a residential property at any time when it is not available for sale with vacant possession.

(2) But for the purposes of this Part a residential property shall be presumed to be available with vacant possession, at any time when any of those duties would apply in relation to the property if it is so available, unless the contrary appears from the manner in which the property is being marketed at that time.

161 Power to provide for further exceptions

The Secretary of State may by regulations provide for other exceptions from any duty under sections 155 to 159 in such cases and circumstances, and to such extent, as may be specified in the regulations.

162 Suspension of duties under sections 155 to 159

(1) The Secretary of State may make an order suspending (or later reviving) the operation of any duty imposed by sections 155 to 159.

(2) An order under this section may provide for the suspension of a duty to take effect only for a period specified in the order.

(3) A duty which is (or is to any extent) revived after being suspended under this section is liable to be suspended again.

Contents of home information packs

163 Contents of home information packs

(1) The Secretary of State may make regulations prescribing—
  (a) the documents which are required or authorised to be included in the home information pack for a residential property; and
  (b) particular information which is required or authorised to be included in, or which is to be excluded from, any such document.

(2) A document prescribed under subsection (1) must be one that the Secretary of State considers would disclose relevant information.

(3) Any particular information required or authorised to be included in a prescribed document must be information that the Secretary of State considers to be relevant information.

(4) In this section "relevant information" means information about any matter connected with the property (or the sale of the property) that would be of interest to potential buyers.

(5) Without prejudice to the generality of subsection (4), the information which the Secretary of State may consider to be relevant information includes any information about—
  (a) the interest which is for sale and the terms on which it is proposed to sell it;
  (b) the title to the property;
  (c) anything relating to or affecting the property that is contained in—
    (i) a register required to be kept by or under any enactment (whenever passed); or
    (ii) records kept by a person who can reasonably be expected to give information derived from those records to the seller at his request (on payment, if required, of a reasonable charge);
  (d) the physical condition of the property (including any particular characteristics or features of the property);
  (e) the energy efficiency of the property;
  (f) any warranties or guarantees subsisting in relation to the property;
  (g) any taxes, service charges or other charges payable in relation to the property.

(6) The regulations may require or authorise the home information pack to include—
  (a) replies the seller proposes to give to prescribed pre-contract enquiries; and
  (b) documents or particular information indexing or otherwise explaining the contents of the pack.

(7) The regulations may require a prescribed document—
  (a) to be in such form as may be prescribed; and
  (b) to be prepared by a person of a prescribed description on such terms (if any) as may be prescribed.

(8) The terms mentioned in subsection (7)(b) may include terms which enable provisions of the contract under which the document is to be prepared to be enforced by—
  (a) a potential or actual buyer;
  (b) a mortgage lender; or
  (c) any other person involved in the sale of the property who is not a party to that contract.

(9) The regulations may—
  (a) provide for the time at which any document is to be included in or removed from the home information pack; and
  (b) make different provision for different areas, for different descriptions of properties or for other different circumstances (including the manner in which a residential property is marketed).

(10) In this section "prescribed" means prescribed by regulations under this section.

164 Home condition reports

(1) Regulations under section 163 may make the provision mentioned in this section in relation to any description of document dealing with matters mentioned in section 163(5)(d) or (e) (reports on physical condition or energy efficiency) which is to be included in the home information pack.

(2) In this section "home condition report" means a document of that description.

(3) The regulations may require a home condition report to be made by an individual who is a member of an approved certification scheme following an inspection carried out by him in accordance with the provisions of the scheme.

(4) The regulations shall, if the provision mentioned in subsection (3) is made, make provision for the approval by the Secretary of State of one or more suitable certification schemes (and for the withdrawal by him of any such approval).

(5) The regulations shall require the Secretary of State to be satisfied, before approving a certification scheme, that the scheme contains appropriate provision—
  (a) for ensuring that members of the scheme are fit and proper persons who are qualified (by their education, training and experience) to produce home condition reports;
  (b) for ensuring that members of the scheme have in force suitable indemnity insurance;
  (c) for facilitating the resolution of complaints against members of the scheme;
  (d) for requiring home condition reports made by members of the scheme to be entered on the register mentioned in section 165;
  (e) for the keeping of a public register of the members of the scheme; and
  (f) for such other purposes as may be specified in the regulations.

(6) Subsection (5)(d) only applies where provision for a register of home condition reports is made under section 165.

(7) The regulations may require or authorise an approved certification scheme to contain provision about any matter relating to the home condition reports with

which the scheme is concerned (including the terms on which members of the scheme may undertake to produce a home condition report).

(8) Nothing in this section limits the power under section 163 to make provision about home condition reports in the regulations.

Register of home condition reports

165 Register of home condition reports

(1) Where the provision mentioned in section 164(3) is made in relation to an approved certification scheme, regulations under section 163 may make provision for and in connection with a register of the home condition reports made by members of the scheme.

(2) The regulations may provide for the register to be kept—
  (a) by (or on behalf of) the Secretary of State; or
  (b) by such other person as the regulations may specify.

(3) The regulations may require a person wishing to enter a home condition report onto the register to pay such fee as may be prescribed.

(4) No person may disclose—
  (a) the register or any document (or part of a document) contained in it; or
  (b) any information contained in, or derived from, the register,

except in accordance with any provision of the regulations which authorises or requires such a disclosure to be made.

(5) The provision which may be made under subsection (1) includes (without prejudice to the generality of that subsection) provision as to circumstances in which or purposes for which a person or a person of a prescribed description—
  (a) may (on payment of such fee, if any, as may be prescribed)—
    (i) inspect the register or any document (or part of a document) contained in it;
    (ii) take or be given copies of the register or any document (or part of a document) contained in it; or
    (iii) be given information contained in, or derived from, the register; or
  (b) may disclose anything obtained by virtue of provision made under paragraph (a).

(6) The purposes which may be so prescribed may be public purposes or purposes of private undertakings or other persons.

(7) A person who contravenes subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) Nothing in this section limits the power to make regulations under section 163.

Enforcement

166 Enforcement authorities

(1) Every local weights and measures authority is an enforcement authority for the purposes of this Part.

(2) It is the duty of each enforcement authority to enforce—
  (a) the duties under sections 155 to 159 and 167(4), and
  (b) any duty imposed under section 172(1),
in their area.

167 Power to require production of home information packs

(1) An authorised officer of an enforcement authority may require a person who appears to him to be or to have been subject to the duty under section 155 or 159(2), in relation to a residential property, to produce for inspection a copy of, or of any document included in, the home information pack for that property.

(2) The power conferred by subsection (1) includes power—
  (a) to require the production in a visible and legible documentary form of any document included in the home information pack in question which is held in electronic form; and
  (b) to take copies of any document produced for inspection.

(3) A requirement under this section may not be imposed more than six months after the last day on which the person concerned was subject to the duty under section 155 or 159(2) in relation to the property (as the case may be).

(4) Subject to subsection (5), it is the duty of a person subject to such a requirement to comply with it within the period of 7 days beginning with the day after that on which it is imposed.

(5) A person is not required to comply with such a requirement if he has a reasonable excuse for not complying with the requirement.

(6) In this section "the home information pack" means—
  (a) where a requirement under this section is imposed on a person at a time when he is subject to the duty under section 155 or 159(2), the home information pack intended by him to be the one he is required to have at that time; or
  (b) in any other case, the home information pack intended by the person concerned, when he was last subject to the duty under section 155 or 159(2), to be the one he was required to have at that time.

168 Penalty charge notices

(1) An authorised officer of an enforcement authority may, if he believes that a person has committed a breach of—
  (a) any duty under sections 155 to 159 and 167(4), or
  (b) any duty imposed under section 172(1),
give a penalty charge notice to that person.

(2) A penalty charge notice may not be given after the end of the period of six months beginning with the day (or in the case of a continuing breach the last day) on which the breach of duty was committed.

(3) Schedule 8 (which makes further provision about penalty charge notices) has effect.

169 Offences relating to enforcement officers

(1) A person who obstructs an officer of an enforcement authority acting in pursuance of section 167 is guilty of an offence.

(2) A person who, not being an authorised officer of an enforcement authority, purports to act as such in pursuance of section 167 or 168 is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

170 Right of private action

(1) This section applies where a person ("the responsible person") has committed a breach of duty under section 156 by failing to comply with a request from a potential buyer of a residential property for a copy of a prescribed document.

(2) If the potential buyer commissions his own version of the prescribed document at a time when both of the conditions mentioned below are satisfied, he is entitled to recover from the responsible person any reasonable fee paid by him in order to obtain the document.

(3) The first condition is that—
  (a) the property is on the market; or
  (b) the potential buyer and the seller are attempting to reach an agreement for the sale of the property.

(4) The second condition is that the potential buyer has not been provided with an authentic copy of the prescribed document.

(5) A copy of a prescribed document is not authentic for the purposes of subsection (4) unless—
  (a) it is a copy of a document included in the home information pack for the property as it stands at the time the copy is provided to the potential buyer; and
  (b) the document so included complies with the requirements of any regulations under section 163 at that time.

(6) In subsection (5) "the home information pack" means the home information pack intended by the responsible person to be the one required by section 155.

(7) In this section "prescribed document" means a document (being one required to be included in the home information pack by regulations under section 163) which is prescribed by regulations made by the Secretary of State for the purposes of this section.

(8) It is immaterial for the purposes of this section that the request in question did not specify the prescribed document but was for a copy of the home information pack or a part of the pack which included (or ought to have included) that document.

Supplementary

171 Application of Part to sub-divided buildings

(1) This section applies where—

(a) two or more dwelling-houses in a sub-divided building are marketed for sale (with any ancillary land) as a single property; and

(b) any one or more of those dwelling-houses—

(i) is not available for sale (with any ancillary land) as a separate residential property; but

(ii) is available with vacant possession.

(2) This Part applies to the dwelling-houses mentioned in subsection (1)(a) (with any ancillary land) as if—

(a) they were a residential property, and

(b) section 160 were omitted.

(3) Subsection (2) does not affect the application of this Part to any of those dwelling-houses which is available for sale (with any ancillary land) as a separate residential property.

(4) In this section "sub-divided building" means a building or part of a building originally constructed or adapted for use as a single dwelling which has been divided (on one or more occasions) into separate dwelling-houses.

172 Power to require estate agents to belong to a redress scheme

(1) The Secretary of State may by order require every estate agent to be a member of an approved redress scheme.

(2) Acting as estate agent for the seller of a residential property in contravention of such an order is a breach of duty under this Part.

(3) Before making such an order the Secretary of State must be satisfied that he has approved one or more redress schemes such that every estate agent who is (or will be) subject to the duty imposed by the order is eligible to join an approved redress scheme.

For this purpose "estate agent" does not include a person who is (by virtue of a prohibition imposed by or under the Estate Agents Act 1979 (c. 38)) unable lawfully to act as estate agent for the seller of a residential property.

(4) An order under this section may—

(a) exclude estate agents of a prescribed description from any duty imposed under subsection (1);

(b) limit any duty so imposed so that it applies only in relation to relevant complaints of a prescribed description.

(5) Nothing in this section is to be taken as preventing an approved redress scheme from providing—

(a) for membership to be open to persons who are not subject to any duty to belong to an approved redress scheme;

(b) for the investigation and determination of complaints, other than those in relation to which such a duty applies, made against members who have voluntarily accepted the jurisdiction of the scheme over such complaints;

(c) for the exclusion from investigation and determination under the scheme of any complaint in such cases or circumstances as may be specified in the scheme.

(6) In this section and sections 173 and 174—

"approved redress scheme" means a redress scheme that is for the time being approved under section 173;

"estate agent" means a person who acts as estate agent for sellers of residential properties for which a home information pack is (or will be) required under this Part;

"redress scheme" means a scheme under which certain relevant complaints may be investigated and determined by an independent person (referred to in those sections as "the ombudsman"); and

"relevant complaint" means a complaint against an estate agent which—

(a) is made by a person who at the material time is the seller or a potential buyer of a residential property; and

(b) relates to an act or omission affecting the complainant in the course of the estate agent's activities in relation to a home information pack that is (or will be) required for that property (including the giving of advice as to whether such a pack is required).

(7) For the purposes of the law relating to defamation, proceedings under an approved redress scheme in relation to the investigation and determination of a complaint which is subject to an order under this section are to be treated in the same way as proceedings before a court.

173 Approval of redress schemes

(1) If the Secretary of State considers that a redress scheme (including one made by him or in pursuance of arrangements made by him) is satisfactory for the purposes of section 172, he may approve it for those purposes.

(2) In determining whether a redress scheme is satisfactory the Secretary of State shall have regard to—

(a) the provisions of the scheme;

(b) the manner in which the scheme will be operated (so far as can be judged from the facts known to him); and

(c) the respective interests of members of the scheme and of sellers and potential buyers of residential properties.

(3) A redress scheme may not be approved unless it makes satisfactory provision about the following matters (among other things)—

(a) the matters about which complaints may be made (which may include non-compliance with the provisions of a code of practice or other document);

(b) the ombudsman's duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a complaint);

(c) the provision of information by the ombudsman to—

(i) persons exercising functions under other schemes providing a means of redress for consumers; and

(ii) the Secretary of State or any other person exercising regulatory functions in relation to the activities of estate agents.

(4) An application for approval of a redress scheme shall be made in such manner as the Secretary of State may determine, accompanied by such information as the Secretary of State may require.

(5) The person administering an approved redress scheme shall notify the Secretary of State of any change to the scheme as soon as practicable after the change is made.

174 Withdrawal of approval of redress schemes

(1) The Secretary of State may withdraw his approval of a redress scheme.

(2) But before withdrawing his approval, the Secretary of State shall serve on the person administering the scheme a notice stating—
  (a) that he proposes to withdraw his approval;
  (b) the grounds for the proposed withdrawal of approval; and
  (c) that representations about the proposed withdrawal may be made within such period of not less than 14 days as is specified in the notice.

(3) The Secretary of State shall give notice of his decision on a proposal to withdraw approval, with his reasons, to the person administering the scheme.

(4) Withdrawal of approval has effect from such date as may be specified in that notice.

(5) The person administering the scheme shall give a copy of a notice under subsection (3) to every member of the scheme.

175 Office of Fair Trading

(1) An enforcement authority may notify the Office of Fair Trading of any breach of duty under this Part appearing to the authority to have been committed by a person acting as estate agent.

(2) An enforcement authority shall notify the Office of Fair Trading of—
  (a) any penalty charge notice given by an officer of the authority under section 168;
  (b) any notice given by the authority confirming or withdrawing a penalty charge notice; and
  (c) the result of any appeal from the confirmation of a penalty charge notice.

(3) The Estate Agents Act 1979 (c. 38) applies in relation to a person who has committed a breach of duty under this Part in the course of estate agency work (within the meaning of that Act) as it applies in relation to a person who has engaged in a practice such as is mentioned in section 3(1)(d) of that Act in the course of such work.

176 Grants

(1) The Secretary of State may make grants towards expenditure incurred by any person in connection with—
  (a) the development of proposals for any provision to be made by regulations under section 163;
  (b) the development of schemes which are intended to be certification schemes for the purposes of any provision made or expected to be made in regulations under section 163 by virtue of section 164; or

(c) the development of a register for the purposes of any provision made or expected to be made in regulations under section 163 by virtue of section 165.

(2) A grant under this section may be made on conditions, which may include (among other things)—

(a) conditions as to the purposes for which the grant or any part of it may be used; and

(b) conditions requiring the repayment of the grant or any part of it in such circumstances as may be specified in the conditions.

177 Interpretation of Part 5

(1) In this Part—

"ancillary land", in relation to a dwelling-house or a sub-divided building, means any land intended to be occupied and enjoyed together with that dwelling-house or building;

"long lease" means—

(a) a lease granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture; or

(b) a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a lease by sub-demise from one which is not a long lease;

and for this purpose "lease" does not include a mortgage term;

"potential buyer" means a person who claims that he is or may become interested in buying a residential property;

"sale", in relation to a residential property, means a disposal, or agreement to dispose, by way of sale of—

(a) the freehold interest;

(b) the interest under a long lease;

(c) an option to acquire the freehold interest or the interest under a long lease;

and "seller" means a person contemplating disposing of such an interest (and related expressions shall be construed accordingly).

(2) Any reference in the definition of "sale" to the disposal of an interest of a kind mentioned in that definition includes a reference to the creation of such an interest.

(3) A document which is not in electronic form is only to be regarded for the purposes of this Part as being under the control of a person while it is in the possession of another if he has the right to take immediate possession of the document on demand (and without payment).

(4) A document held in electronic form is only to be regarded for the purposes of this Part as being in a person's possession or under his control if he is readily able (using equipment available to him)—

(a) to view the document in a form that is visible and legible; and

(b) to produce copies of it in a visible and legible documentary form.

178 Index of defined expressions: Part 5

In this Part, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions inserted in the right-hand column.

Expression	*Provision of this Act*
Acting as estate agent for the seller	Section 150
Ancillary land	Section 177(1)
Control of documents	Section 177(3) and (4)
Dwelling-house	Section 148(1)
Enforcement authority	Section 166
Home information pack	Section 148(2)
Long lease	Section 177(1)
Make public	Section 149(4)
Possession of electronic documents	Section 177(4)
Potential buyer	Section 177(1)
Putting on the market	Section 149(2)
Remaining on the market	Section 149(3)
Residential property	Section 148(1)
Responsible person	Section 151(1)
Sale (and related expressions)	Section 177(1)
Seller (and related expressions)	Section 177(1)
The market	Section 149(1).

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

Introductory tenancies

179 Extension of introductory tenancies

(1) Part 5 of the Housing Act 1996 (c. 52) (conduct of tenants) is amended as follows.

(2) In section 125(2) (trial period for introductory tenancy to be one year) for "subject as follows" substitute "but this is subject to subsections (3) and (4) and to section 125A (extension of trial period by 6 months)."

(3) After section 125 insert—

"125A Extension of trial period by 6 months

(1) If both of the following conditions are met in relation to an introductory tenancy, the trial period is extended by 6 months.

(2) The first condition is that the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date.

(3) The second condition is that either—
  (a) the tenant has not requested a review under section 125B in accordance with subsection (1) of that section, or
  (b) if he has, the decision on the review was to confirm the landlord's decision to extend the trial period.

(4) A notice of extension is a notice—
  (a) stating that the landlord has decided that the period for which the tenancy is to be an introductory tenancy should be extended by 6 months, and
  (b) complying with subsection (5).

(5) A notice of extension must—
  (a) set out the reasons for the landlord's decision, and
  (b) inform the tenant of his right to request a review of the landlord's decision and of the time within which such a request must be made.

(6) In this section and section 125B "the original expiry date" means the last day of the period of one year that would apply as the trial period apart from this section.

125B Review of decision to extend trial period

(1) A request for review of the landlord's decision that the trial period for an introductory tenancy should be extended under section 125A must be made before the end of the period of 14 days beginning with the day on which the notice of extension is served.

(2) On a request being duly made to it, the landlord shall review its decision.

(3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

(4) Provision may be made by regulations—
  (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.

(5) The landlord shall notify the tenant of the decision on the review.
If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

(6) The review shall be carried out and the tenant notified before the original expiry date."

(4) The amendments made by this section do not apply in relation to any tenancy entered into before, or in pursuance of an agreement made before, the day on which this section comes into force.

Right to buy: when exercisable

180 Extension of qualifying period for right to buy

(1) In section 119(1) of the Housing Act 1985 (c. 68) (qualifying period for right to buy) for "two" substitute "five".

(2) In subsection (2)(a) of section 129 of that Act (discount)—
(a) for "two" substitute "five"; and
(b) for "32 per cent" substitute "35 per cent".

(3) In subsection (2)(b) of that section—
(a) for "two", where it appears for the second time, substitute "five"; and
(b) for "44 per cent" substitute "50 per cent".

(4) In subsection (2A)(b) of that section for "two" substitute "five".

(5) The amendments made by this section do not apply in relation to a secure tenancy—
(a) if the tenancy was entered into before, or in pursuance of an agreement made before, the day on which this section comes into force, or
(b) if paragraph (a) does not apply but the tenant is a public sector tenant on that day and does not cease to be such a tenant at any time before serving a notice in respect of the tenancy under section 122 of that Act.

(6) In subsection (5) "public sector tenant" has the same meaning as in Schedule 4 to that Act.

181 Exceptions to the right to buy: determination whether exception for dwelling-house suitable for elderly persons applies

(1) In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy) paragraph 11 (single dwelling-house particularly suitable for elderly persons) is amended as follows.

(2) In sub-paragraph (4) (questions arising under paragraph 11 to be determined by the Secretary of State), for "the Secretary of State" (in both places) substitute "the appropriate tribunal or authority".

(3) After sub-paragraph (5) insert—

"(5A) In this paragraph "the appropriate tribunal or authority" means—
(a) in relation to England, a residential property tribunal; and
(b) in relation to Wales, the Secretary of State.

(5B) Section 231 of the Housing Act 2004 (appeals to Lands Tribunal) does not apply to any decision of a residential property tribunal under this paragraph."

(4) Subsections (5) and (6) apply to any application under paragraph 11(4) in respect of a dwelling-house in England which—

(a) has been made to the Secretary of State before the day on which this section comes into force, and

(b) has not been determined by him before that day.

(5) If the application was made more than 28 days before that day, it is to be determined by the Secretary of State as if the amendments made by this section had not come into force.

(6) Otherwise—

(a) the application is to be determined by a residential property tribunal, and

(b) the Secretary of State must make all such arrangements as he considers necessary for the purpose of, or in connection with, enabling it to be so determined.

182 Exceptions to the right to buy: houses due to be demolished

(1) In Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy) after paragraph 12 insert—

"Dwelling-house due to be demolished within 24 months

13 (1) The right to buy does not arise if a final demolition notice is in force in respect of the dwelling-house.

(2) A "final demolition notice" is a notice—

(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—

(i) the date by which he intends to demolish those premises ("the proposed demolition date"), and

(ii) the date when the notice will cease to be in force (unless extended under paragraph 15),

(d) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the notice (specifying the condition concerned), and

(e) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.

(3) If, at the time when the notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall (instead of complying with sub-paragraph (2)(e)) state—

(a) that that claim ceases to be effective on the notice coming into force, but

(b) that section 138C confers a right to compensation in respect of certain expenditure,

and the notice shall also give details of that right to compensation and of how it may be exercised.

(4) The proposed demolition date must fall within the period of 24 months beginning with the date of service of the notice on the tenant.

(5) For the purposes of this paragraph a final demolition notice is in force in respect of the dwelling-house concerned during the period of 24 months mentioned in sub-paragraph (4), but this is subject to—

(a) compliance with the conditions in sub-paragraphs (6) and (7) (in a case to which they apply), and

(b) the provisions of paragraph 15(1) to (7).

(6) If—

(a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and

(b) the landlord intends to demolish the whole of the building,

the landlord must have served a final demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as "the occupier").

An accidental omission to serve a final demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.

(7) A notice stating that the landlord intends to demolish the relevant premises must have appeared—

(a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and

(b) in any newspaper published by the landlord, and

(c) on the landlord's website (if he has one).

(8) The notice mentioned in sub-paragraph (7) 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 proposed demolition date;

(d) the date when any final demolition notice or notices relating to those premises will cease to be in force, unless extended or revoked under paragraph 15;

(e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them;

(f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.

(9) In this paragraph and paragraphs 14 and 15 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, or of a reference to the acquisition or transfer of any premises, includes a reference to a superior landlord.

14 (1) A final demolition notice may only be served for the purposes of paragraph 13 if one of conditions A to C is satisfied in relation to the notice.

(2) Condition A is that the proposed demolition of the dwelling-house does not form part of a scheme involving the demolition of other premises.

(3) Condition B is that—

(a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, but

(b) none of those other premises needs to be acquired by the landlord in order for the landlord to be able to demolish them.

(4) Condition C is that—

(a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, and

(b) one or more of those premises need to be acquired by the landlord in order for the landlord to be able to demolish them, but

(c) in each case arrangements for their acquisition are in place.

(5) For the purposes of sub-paragraph (4) arrangements for the acquisition of any premises are in place if—

(a) an agreement under which the landlord is entitled to acquire the premises is in force, or

(b) a notice to treat has been given in respect of the premises under section 5 of the Compulsory Purchase Act 1965, or

(c) a vesting declaration has been made in respect of the premises under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.

(6) In this paragraph—

"premises" means premises of any description;

"scheme" includes arrangements of any description.

15 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a final demolition notice is in force in respect of a dwelling-house.

(2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such requirements relating to the service of further notices as are specified in the direction.

(3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).

(4) If, while a final demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice ("a revocation notice") on the tenant which informs him—

(a) of the landlord's decision, and

(b) that the demolition notice is revoked as from the date of service of the revocation notice.

(5) If, while a final demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice ("a revocation notice") on the tenant which informs him—

(a) of the Secretary of State's conclusion, and

(b) that the demolition notice is revoked as from the date of service of the revocation notice.

Section 169 applies in relation to the Secretary of State's power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section.

(6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State's intention to serve the revocation notice.

(7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice.

(8) Once a final demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further final demolition notice may be served in respect of it during the period of 5 years following the time when the 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.

(9) The Secretary of State's consent under sub-paragraph (8) may be given subject to compliance with such conditions as he may specify.

16 (1) Any notice under paragraph 13 or 15 may be served on a person—

(a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or

(b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body.

(2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be—

(a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and

(b) in any other case, the last known address of that person."

(2) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

183 Right to buy: claim suspended or terminated by demolition notice

(1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease), after the subsection (2D) inserted by section 193 of this Act, insert—

"(2E) Subsection (1) also has effect subject to—

(a) section 138A(2) (operation of subsection (1) suspended while initial demolition notice is in force), and

(b) section 138B(2) (subsection (1) disapplied where final demolition notice is served)."

(2) After section 138 of that Act insert—

"138A Effect of initial demolition notice served before completion

(1) This section applies where—

(a) an initial demolition notice is served on a secure tenant under Schedule 5A, and

(b) the notice is served on the tenant before the landlord has made to him such a grant as is required by section 138(1) in respect of a claim by the tenant to exercise the right to buy.

(2) In such a case the landlord is not bound to comply with section 138(1), in connection with any such claim by the tenant, so long as the initial demolition notice remains in force under Schedule 5A.

(3) Section 138C provides a right to compensation in certain cases where this section applies.

138B Effect of final demolition notice served before completion

(1) This section applies where—

(a) a secure tenant has claimed to exercise the right to buy, but

(b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, a final demolition notice is served on the tenant under paragraph 13 of Schedule 5.

(2) In such a case—

(a) the tenant's claim ceases to be effective as from the time when the final demolition notice comes into force under that paragraph, and

(b) section 138(1) accordingly does not apply to the landlord, in connection with the tenant's claim, at any time after the notice comes into force.

(3) Section 138C provides a right to compensation in certain cases where this section applies.

138C Compensation where demolition notice served

(1) This section applies where—

(a) a secure tenant has claimed to exercise the right to buy,

(b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, either an initial demolition notice is served on the tenant under Schedule 5A or a final demolition notice is served on him under paragraph 13 of Schedule 5, and

(c) the tenant's claim is established before that notice comes into force under Schedule 5A or paragraph 13 of Schedule 5 (as the case may be).

(2) If, within the period of three months beginning with the date when the notice comes into force ("the operative date"), the tenant serves on the landlord a written notice claiming an amount of compensation under subsection (3), the landlord shall pay that amount to the tenant.

(3) Compensation under this subsection is compensation in respect of expenditure reasonably incurred by the tenant before the operative date in respect of legal and other fees, and other professional costs and expenses, payable in connection with the exercise by him of the right to buy.

(4) A notice under subsection (2) must be accompanied by receipts or other documents showing that the tenant incurred the expenditure in question."

(3) After Schedule 5 to the Act insert, as Schedule 5A, the Schedule set out in Schedule 9 to this Act.

(4) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claim to exercise right to buy) was served before the day on which this section comes into force.

184 Landlord's notice to complete

(1) Section 140 of the Housing Act 1985 (c. 68) (landlord's first notice to complete) is amended as follows.

(2) In subsection (3) (notice not to be served earlier than twelve months after landlord's notice under section 125 or 146) for "twelve" substitute "three".

(3) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming right to buy) was served before the day on which this section comes into force.

Right to buy: discounts

185 Repayment of discount: periods and amounts applicable

(1) Section 155 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

(2) For subsections (2) and (3) substitute—

"(2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155A on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance or grant.

(3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155B on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the making of the initial payment."

(3) In subsection (3A) (modifications where tenant has served operative notice of delay) for "three years" substitute "five years".

(4) After section 155 insert—

"155A Amount of discount which may be demanded by landlord: right to buy

(1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which under section 127 was taken as the value of the dwelling-house at the relevant time.

(3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(4) This section is subject to section 155C.

155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms

(1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of—

(a) the initial payment,

(b) any interim payment made before the disposal, or

(c) the final payment if so made,

reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal."

(5) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

(6) Subsection (7), however, applies in any such case if the first relevant disposal to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(7) In the following provisions—

(a) section 155(2) and (3) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.

(8) In subsections (6) and (7) "covenant for repayment of discount" means the covenant contained in a conveyance or grant in accordance with section 155 of that Act.

186 Repayment of discount: increase attributable to home improvements to be disregarded

(1) After section 155B of the Housing Act 1985 (c. 68) (inserted by section 185 of this Act) insert—

"155C Increase attributable to home improvements

(1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—
(a) by the person by whom the disposal is, or is to be, made, and
(b) after the conveyance or grant and before the disposal,
shall be disregarded.

(2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
(a) it is reasonably practicable for him to do so; and
(b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section."

(2) In section 181 of that Act (jurisdiction of county court) for "and 158" substitute ", 155C and 158".

187 Deferred resale agreements

(1) After section 163 of the Housing Act 1985 insert—

"163A Treatment of deferred resale agreements for purposes of section 155

(1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In subsection (1) "the appropriate time" means—
(a) the time when the agreement is entered into, or
(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this subsection if it is an agreement between the secure tenant or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,

(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within subsection (3)—

(a) whether or not the date on which the disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make the disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);

(b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under subsection (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"agreement" includes arrangement;

"the discount repayment period" means the period of three or five years that applies for the purposes of section 155(2) or (3) (depending on whether the tenant's notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Right to buy: landlord's right of first refusal

188 Right of first refusal for landlord etc.

(1) After section 156 of the Housing Act 1985 (c. 68) insert—

"156A Right of first refusal for landlord etc.

(1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant, which shall be binding on the secure tenant and his successors in title.

This is subject to subsection (8).

(2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, there will be no relevant

disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(3) In subsection (2) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance or grant is made.

(4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

(a) a landlord who has conveyed a freehold or granted a lease to a person ("the former tenant") in pursuance of this Part, or

(b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 158.

(5) The disposals within this subsection are—

(a) a reconveyance or conveyance of the dwelling-house; and

(b) a surrender or assignment of the lease.

(6) Regulations under this section may, in particular, make provision—

(a) for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;

(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;

(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;

(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the former tenant and any other prescribed person;

(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;

(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;

(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the former tenant is able to make a disposal on the open market;

(h) for the manner in which any offer, acceptance or notification is to be communicated.

(7) In subsection (6) any reference to the former tenant is a reference to the former tenant or his successor in title.

Nothing in that subsection affects the generality of subsection (4).

(8) In a case to which section 157(1) applies—

(a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but

(b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.

(9) Consent may be given in relation to—

(a) a particular disposal, or

(b) disposals by a particular landlord or disposals by landlords generally,

and may, in any case, be given subject to conditions.

(10) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.

(12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant."

(2) In section 157 of that Act (restriction on disposal of dwelling-houses in National Parks etc.)—

(a) in subsection (1), after "the conveyance or grant may" insert "(subject to section 156A(8)";

(b) in subsection (2), omit ", subject to subsection (4),"; and

(c) omit subsections (4) and (5) (which provide for a landlord's right of first refusal).

(3) In section 158 of that Act (consideration for conveyance or surrender under section 157)—

(a) in the sidenote, for "reconveyance or surrender under section 157" substitute "disposal under section 156A";

(b) for subsection (1) substitute—

"(1) The consideration for such a disposal as is mentioned in section 156A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the dwelling-house at the time when the offer is made (as determined in accordance with regulations under that section).";

(c) in subsection (2), for "or surrendered" substitute ", conveyed, surrendered or assigned";

(d) in subsection (3), for "the landlord accepts the offer," substitute "the offer is accepted in accordance with regulations under section 156A,"; and

(e) in subsection (4), for "to reconvey or surrender" substitute "(as determined in accordance with regulations under section 156A)."

(4) In section 162 of that Act (exempted disposals which end liability under

covenants), after paragraph (a) insert—

"(aa) the covenant required by section 156A (right of first refusal for landlord etc.) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and".

(5) The amendments made by this section do not apply in relation to a conveyance of the freehold or grant of a lease in pursuance of Part 5 of that Act if the notice under section 122 of the Act (tenant's notice claiming to exercise right to buy) was served before the day on which this section comes into force.

(6) Accordingly, nothing in this section affects—

(a) the operation of a limitation contained in such a conveyance or grant in accordance with section 157(4) of that Act, or

(b) the operation, in relation to such a limitation, of section 157(6) (so far as it renders a disposal in breach of covenant void) or section 158 (consideration payable) of that Act.

Right to buy: information

189 Information to help tenants decide whether to exercise right to buy etc.

(1) After section 121 of the Housing Act 1985 (c. 68) insert—

"121A Information to help tenants decide whether to exercise right to buy etc.

(1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State.

(2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms.

(3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters—

(a) shall be such as the body concerned considers appropriate, but

(b) shall be in a form which the body considers best suited to explaining those matters in simple terms.

(4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it—

(a) is kept up to date so far as is reasonably practicable, and

(b) reflects any changes in the matters for the time being specified in an order under this section.

(5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

121B Provision of information

(1) This section sets out when the document prepared by a body under section 121A is to be published or otherwise made available.

(2) The body shall—
(a) publish the document (whether in its original or a revised form), and
(b) supply copies of it to the body's secure tenants,
at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.

(3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.

(4) The copies must be made available for that purpose—
(a) at the body's principal offices, and
(b) at such other places as it considers appropriate,
at reasonable hours.

(5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).

(6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2)(a).

(7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 104(1) of that Act (provision of information about tenancies), in paragraph (b) (information about Part 4 and Part 5), omit "and Part V (the right to buy)".

Right to buy: termination of rent to mortgage scheme

190 Termination of rent to mortgage scheme

(1) Before section 143 of the Housing Act 1985 (c. 68) insert—

"142A Termination of the right to acquire on rent to mortgage terms

(1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.

(2) In this section "the termination date" means the date falling 8 months after the date of the passing of the Housing Act 2004."

(2) In section 143(1) of that Act after "sections" insert "142A,".

(3) In section 144(1) of that Act for "A secure tenant" substitute "Subject to section 142A, a secure tenant".

Suspension of certain rights in connection with anti-social behaviour

191 Secure tenancies: withholding of consent to mutual exchange

(1) In Schedule 3 to the Housing Act 1985 (c. 68) (grounds for withholding consent to assignment by way of exchange) after Ground 2 insert—

"Ground 2A

Either—

(a) a relevant order or suspended Ground 2 or 14 possession order is in force, or

(b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made,

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A "relevant order" means—

an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);

an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);

an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);

an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or

an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A "demotion order" means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A "Ground 2 or 14 possession order" means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants."

(2) The amendment made by this section applies in relation to applications for consent under section 92 of that Act (assignments by way of exchange) which are made on or after the day on which this section comes into force.

192 Right to buy: suspension by court order

(1) In section 121 of the Housing Act 1985 (circumstances in which right to buy cannot be exercised), after subsection (2) insert—

"(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy."

(2) After section 121 of that Act insert—

"121A Order suspending right to buy because of anti-social behaviour

(1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.

(2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order ("the suspension period").

(3) The court must not make a suspension order unless it is satisfied—

(a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies (anti-social behaviour or use of premises for unlawful purposes), and

(b) that it is reasonable to make the order.

(4) When deciding whether it is reasonable to make the order, the court must consider, in particular—

(a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and

(b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.

(5) Where a suspension order is made—

(a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and

(b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but

(c) the order does not affect the computation of any period in accordance with Schedule 4.

(6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.

(7) The court must not make such a further order unless it is satisfied—

(a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies, and

(b) that it is reasonable to make the further order.

(8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—

(a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and

(b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or

annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.

(9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants."

(3) Regulations under—

(a) section 171C of that Act (modifications of Part 5 in relation to preserved right to buy), or

(b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

may make provision for continuing the effect of a suspension order where the secure tenancy in respect of which the order was made has been replaced by an assured tenancy.

193 Right to buy: suspension of landlord's obligation to complete

(1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease) after subsection (2) insert—

"(2A) Subsection (2B) applies if an application is pending before any court—

(a) for a demotion order or Ground 2 possession order to be made in respect of the tenant, or

(b) for a suspension order to be made in respect of the tenancy.

(2B) The landlord is not bound to comply with subsection (1) until such time (if any) as the application is determined without—

(a) a demotion order or an operative Ground 2 possession order being made in respect of the tenant, or

(b) a suspension order being made in respect of the tenancy,

or the application is withdrawn.

(2C) For the purposes of subsection (2A) and (2B)—

"demotion order" means a demotion order under section 82A;

"Ground 2 possession order" means an order for possession under Ground 2 in Schedule 2;

"operative Ground 2 possession order" means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order;

"suspension order" means a suspension order under section 121A.

(2D) Subsection (1) has effect subject to section 121A(5) (disapplication of subsection (1) where suspension order is made)."

(2) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

194 Disclosure of information as to orders etc. in respect of anti-social behaviour

(1) Any person may disclose relevant information to a landlord under a secure tenancy if the information is disclosed for the purpose of enabling the landlord—

(a) to decide whether either of the provisions of the Housing Act 1985 (c. 68) mentioned in subsection (2) can be invoked in relation to the tenant under the tenancy; or

(b) to take any appropriate action in relation to the tenant in reliance on either of those provisions.

(2) The provisions are—

(a) Ground 2A in Schedule 3 (withholding of consent to mutual exchange where order in force or application pending in connection with anti-social behaviour), and

(b) section 138(2B) (landlord's obligation to complete suspended while application pending in connection with such behaviour).

(3) In this section—

(a) "relevant information" means information relating to any order or application relevant for the purposes of either of the provisions mentioned in subsection (2), including (in particular) information identifying the person in respect of whom any such order or application has been made;

(b) "secure tenancy" has the meaning given by section 79 of the Housing Act 1985; and

(c) any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.

(4) Regulations under—

(a) section 171C of the Housing Act 1985 (modifications of Part 5 in relation to preserved right to buy), or

(b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

may make provision corresponding to subsections (1) to (3) of this section so far as those subsections relate to section 138(2B) of the Housing Act 1985.

CHAPTER 2

DISPOSALS ATTRACTING DISCOUNTS OTHER THAN UNDER RIGHT TO BUY

Disposals by local authorities

195 Repayment of discount: periods and amounts applicable

(1) Section 35 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

(2) In subsection (2) for the words from "to pay to the authority" to the end of the subsection substitute "to the following effect."

(3) After subsection (2) insert—

"(3) The covenant shall be to pay to the authority such sum (if any) as the authority may demand in accordance with subsection (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment.

(4) The authority may demand such sum as they consider appropriate, up to and including the maximum amount specified in this section.

(5) The maximum amount which may be demanded by the authority is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 32.

(6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(7) Subsections (4) to (6) are subject to section 35A."

(4) The amendments made by this section do not apply in any case where—

(a) the purchaser has accepted an offer for the disposal of the house from the authority, or

(b) the authority has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

(5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(6) In the following provisions—

(a) section 35(2) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

any reference (however expressed) to a person being liable to pay an amount to the authority on demand is to be read as a reference to his being liable to pay to the authority so much of that amount (if any) as the authority may demand.

(7) In subsections (5) and (6) "covenant for repayment of discount" means the covenant contained in a conveyance, grant or assignment in accordance with section 35 of that Act.

196 Repayment of discount: increase attributable to home improvements to be disregarded

After section 35 of the Housing Act 1985 insert—

"35A Increase in value of house attributable to home improvements

(1) In calculating the maximum amount which may be demanded by the authority under section 35, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—

(a) by the person by whom the disposal is, or is to be, made, and

(b) after the conveyance, grant or assignment and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
  (a) it is reasonably practicable for him to do so; and
  (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section."

197 Local authority's right of first refusal

(1) After section 36 of the Housing Act 1985 (c. 68) insert—

"36A Right of first refusal for local authority

(1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.

(2) On the disposal the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

(3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(4) In subsection (3) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.

(5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
  (a) a local authority which have made a disposal as mentioned in subsection (1), or
  (b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within subsection (6) made to them or him for such consideration as is mentioned in section 36B.

(6) The disposals within this subsection are—
  (a) a reconveyance or conveyance of the house; and
  (b) a surrender or assignment of the lease.

(7) Regulations under this section may, in particular, make provision—
  (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
  (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;

(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;

(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;

(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;

(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;

(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;

(h) for the manner in which any offer, acceptance or notification is to be communicated.

(8) In subsection (7) any reference to the purchaser is a reference to the purchaser or his successor in title.
Nothing in that subsection affects the generality of subsection (5).

(9) Regulations under this section—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) The limitation imposed by a covenant within subsection (3) is a local land charge.

(11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

36B Consideration payable for disposal under section 36A

(1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 36A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 35 (repayment of discount on early disposal) would be discharged by the vendor.

(3) If the offer is accepted in accordance with regulations under section 36A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal

which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 36A)."

(2) In section 33(2) of the Housing Act 1985 (c. 68) (covenants and conditions which may be imposed), after "But" insert ", subject to sections 36A and 37,".

(3) In section 37(1) of that Act (restriction on disposal of dwelling-houses in National Parks etc.), after "restriction on assignment)" insert "or a covenant as mentioned in section 36A(3) (right of first refusal for local authority)".

(4) In section 41 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—

"(aa) the covenant required by section 36A (right of first refusal for local authority) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and".

(5) The amendments made by this section do not apply in relation to a disposal under section 32 of that Act if—

(a) the purchaser has accepted an offer for the disposal of the house from the authority, or

(b) the authority has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

198 Deferred resale agreements

(1) After section 39 of the Housing Act 1985 insert—

"39A Treatment of deferred resale agreements for purposes of section 35

(1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 35 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In subsection (1) "the appropriate time" means—

(a) the time when the agreement is entered into, or

(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 32,

(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within subsection (3)—

(a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);

(b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under subsection (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"agreement" includes arrangement;

"the discount repayment period" means the period of 3 years that applies for the purposes of section 35(2) or the period of five years that applies for the purposes of section 35(3) (depending on whether an offer such as is mentioned in section 195(4) of the Housing Act 2004 was made before or on or after the coming into force of that section)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Disposals by registered social landlords

199 Repayment of discount: periods and amounts payable

(1) For section 11 of the Housing Act 1996 (c. 52) substitute—

"11 Covenant for repayment of discount on disposal

(1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.

(2) The covenant shall be to pay to the landlord such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment.

(3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(4) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house by the landlord.

(5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(6) Subsections (3) to (5) are subject to section 11A.

11A Increase in value of house attributable to home improvements to be disregarded

(1) In calculating the maximum amount which may be demanded by the landlord under section 11, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—

(a) by the person by whom the disposal is, or is to be, made, and

(b) after the conveyance, grant or assignment and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—

(a) it is reasonably practicable for him to do so; and

(b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.

11B Liability to repay is a charge on the house

(1) The liability that may arise under the covenant required by section 11 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

(2) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, etc.)—

(a) the covenant required by section 11 is not binding on the person to whom the disposal is made or any successor in title of his, and

(b) the covenant and the charge taking effect by virtue of this section cease to apply in relation to the property disposed of."

(2) In section 12, for "section 11" in each place where it occurs substitute "section 11B".

(3) The amendments made by this section do not apply in any case where—
  (a) the purchaser has accepted an offer for the disposal of the house from the landlord, or
  (b) the landlord has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

(4) Subsection (5), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(5) In the following provisions—
  (a) section 11(2) of the Housing Act 1996 (c. 52) (as it has effect without the amendments made by this section), and
  (b) any covenant for repayment of discount,

any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.

(6) In subsections (4) and (5) "covenant for repayment of discount" means the covenant contained in a conveyance, grant or assignment in accordance with section 11 of that Act.

200 Registered social landlord's right of first refusal

(1) After section 12 of the Housing Act 1996 insert—

"12A Right of first refusal for registered social landlord

(1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

(2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(3) In subsection (2) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.

(4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
  (a) a registered social landlord which has made a disposal as mentioned in subsection (1), or
  (b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 12B.

(5) The disposals within this subsection are—

(a) a reconveyance or conveyance of the house; and
(b) a surrender or assignment of the lease.

(6) Regulations under this section may, in particular, make provision—
(a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
(h) for the manner in which any offer, acceptance or notification is to be communicated.

(7) In subsection (6) any reference to the purchaser is a reference to the purchaser or his successor in title.
Nothing in that subsection affects the generality of subsection (4).

(8) Regulations under this section—
(a) may make different provision with respect to different cases or descriptions of case; and
(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) The limitation imposed by a covenant within subsection (2) is a local land charge.

(10) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

(11) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c)—
(a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
(b) the covenant ceases to apply in relation to the property disposed of.

12B Consideration payable for disposal under section 12A

(1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 12A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 11 (repayment of discount on early disposal) would be discharged by the vendor.

(3) If the offer is accepted in accordance with regulations under section 12A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 12A)."

(2) In section 13(1) of the Housing Act 1996 (c. 52) (restriction on disposal of houses in National Parks, &c), after "restriction on assignment)" insert "or a covenant as mentioned in section 12A(2) of this Act (right of first refusal for registered social landlord)".

(3) The amendments made by this section do not apply in relation to a disposal under section 8 of that Act if—

(a) the purchaser has accepted an offer for the disposal of the house from the landlord, or

(b) the landlord has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

201 Deferred resale agreements

(1) After section 15 of the Housing Act 1996 insert—

"15A Treatment of deferred resale agreements for purposes of section 11

(1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 11 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In subsection (1) "the appropriate time" means—

(a) the time when the agreement is entered into, or

(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, by virtue of section 8,

(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal which is not an exempted disposal is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within subsection (3)—

(a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);

(b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under subsection (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"agreement" includes arrangement;

"the discount repayment period" means the period of three or five years that applies for the purposes of section 11(2) (depending on whether an offer such as is mentioned in section 199(3) of the Housing Act 2004 was made before or on or after the coming into force of that section)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

202 Right of assured tenant to acquire dwelling not affected by collective enfranchisement

(1) Section 16 of the Housing Act 1996 (c. 52) (right of assured tenant of registered social landlord to acquire dwelling) is amended as follows.

(2) After subsection (3) insert—

"(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the landlord under a lease granted in pursuance of paragraph 3 of Schedule

9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective enfranchisement)."

(3) The amendment made by subsection (2) applies in relation to the right conferred by section 16 as follows—

(a) it applies for the purposes of any exercise of that right on or after the day on which this section comes into force, and

(b) it so applies whether the lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 was granted on or after that day or before it.

Disposals by housing action trusts

203 Repayment of discount: periods and amounts payable

(1) Schedule 11 to the Housing Act 1988 (c. 50) (provisions applicable to certain disposals of houses) is amended as follows.

(2) In paragraph 1(2) for the words from "to pay to the housing action trust" to the end of the sub-paragraph substitute "to the following effect."

(3) After paragraph 1(2) insert—

"(3) The covenant shall be to pay to the housing action trust such sum (if any) as the trust may demand in accordance with sub-paragraph (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment.

(4) The trust may demand such sum as it considers appropriate, up to and including the maximum amount specified in this paragraph.

(5) The maximum amount which may be demanded by the trust is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 79.

(6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the trust is reduced by one-fifth.

(7) Sub-paragraphs (4) to (6) are subject to paragraph 1A.

Increase in value of house attributable to home improvements

1A (1) In calculating the maximum amount which may be demanded by the housing action trust under paragraph 1, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—

(a) by the person by whom the disposal is, or is to be, made, and

(b) after the conveyance, grant or assignment and before the disposal,

shall be disregarded.

(2) The amount to be disregarded under this paragraph shall be such amount as may be agreed between the parties or determined by the district valuer.

(3) The district valuer shall not be required by virtue of this paragraph to make a determination for the purposes of this paragraph unless—

(a) it is reasonably practicable for him to do so; and

(b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.

(4) If the district valuer does not make a determination for the purposes of this paragraph (and in default of an agreement), no amount is required to be disregarded under this paragraph."

(4) The amendments made by this section do not apply in any case where—

(a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or

(b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

(5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.

(6) In the following provisions—

(a) paragraph 1(2) of Schedule 11 to the Housing Act 1988 (c. 50) (as it has effect without the amendments made by this section), and

(b) any covenant for repayment of discount,

any reference (however expressed) to a person being liable to pay an amount to the housing action trust on demand is to be read as a reference to his being liable to pay to the trust so much of that amount (if any) as the trust may demand.

(7) In subsections (5) and (6) "covenant for repayment of discount" means the covenant contained in a conveyance, grant or assignment in accordance with paragraph 1 of Schedule 11 to that Act.

204 Housing action trust's right of first refusal

(1) After paragraph 2 of Schedule 11 to the Housing Act 1988 insert—

"Right of first refusal for housing action trust

2A (1) This paragraph applies where, on the disposal of a house under section 79 of this Act, a discount is given to the purchaser by the housing action trust in accordance with a consent given by the Secretary of State under subsection (1) of that section and that consent does not exclude the application of this paragraph.

(2) On the disposal, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

(3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal,

unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(4) In sub-paragraph (3) "the prescribed conditions" means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.

(5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

(a) a housing action trust which has made a disposal as mentioned in sub-paragraph (1), or

(b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within sub-paragraph (6) made to him for such consideration as is mentioned in paragraph 2B.

(6) The disposals within this sub-paragraph are—

(a) a reconveyance or conveyance of the house; and

(b) a surrender or assignment of the lease.

(7) Regulations under this paragraph may, in particular, make provision—

(a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;

(b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;

(c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;

(d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;

(e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;

(f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;

(g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;

(h) for the manner in which any offer, acceptance or notification is to be communicated.

(8) In sub-paragraph (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that sub-paragraph affects the generality of sub-paragraph (5).

(9) Regulations under this paragraph—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) The limitation imposed by a covenant within sub-paragraph (3) is a local land charge.

(11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

Consideration payable for disposal under paragraph 2A

2B (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in paragraph 2A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that paragraph).

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by paragraph 1 (repayment of discount on early disposal) would be discharged by the vendor.

(3) If the offer is accepted in accordance with regulations under paragraph 2A, no payment shall be required in pursuance of any such covenant as is mentioned in sub-paragraph (2), but the consideration shall be reduced, subject to sub-paragraph (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in sub-paragraph (2), the consideration shall not be reduced under sub-paragraph (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under paragraph 2A)."

(2) In paragraph 6 of Schedule 11 to that Act (exempted disposals ending obligation under covenants), at the end of paragraph (b) insert "and

(c) the covenant required by paragraph 2A above is not binding on the person to whom the disposal is made or any successor in title of his; and

(d) that covenant ceases to apply in relation to the property disposed of."

(3) The amendments made by this section do not apply in relation to a disposal under section 79 of that Act if—

(a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or

(b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,

before the day on which this section comes into force.

205 Deferred resale agreements

(1) After paragraph 7 of Schedule 11 to the Housing Act 1988 (c. 50) insert—

"Treatment of deferred resale agreements

8 (1) If a purchaser or his successor in title enters into an agreement within sub-paragraph (3), any liability arising under the covenant required by paragraph 1 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.

(2) In sub-paragraph (1) "the appropriate time" means—

(a) the time when the agreement is entered into, or

(b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

(3) An agreement is within this sub-paragraph if it is an agreement between the purchaser or his successor in title and any other person—

(a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 79,

(b) which is made before the end of the discount repayment period, and

(c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

(4) Such an agreement is within sub-paragraph (3)—

(a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and

(b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.

(5) The Secretary of State may by order provide—

(a) for sub-paragraph (1) to apply to agreements of any description specified in the order in addition to those within sub-paragraph (3);

(b) for sub-paragraph (1) not to apply to agreements of any description so specified to which it would otherwise apply.

(6) An order under sub-paragraph (5)—

(a) may make different provision with respect to different cases or descriptions of case; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this paragraph—

"agreement" includes arrangement;

"the discount repayment period" means the period of 3 years that applies for the purposes of paragraph 1(2) or the period of five years that applies for the purposes of paragraph 1(3) (depending on whether an offer such as is mentioned in section 203(4) of the Housing Act 2004 was made before or on or after the coming into force of that section)."

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

CHAPTER 3

MOBILE HOMES

Site agreements

206 Particulars of site agreements to be given in advance

(1) For section 1 of the Mobile Homes Act 1983 (c. 34) (particulars of agreements between site owners and occupiers of mobile homes) substitute—

"1 Particulars of agreements

(1) This Act applies to any agreement under which a person ("the occupier") is entitled—
  (a) to station a mobile home on land forming part of a protected site; and
  (b) to occupy the mobile home as his only or main residence.

(2) Before making an agreement to which this Act applies, the owner of the protected site ("the owner") shall give to the proposed occupier under the agreement a written statement which—
  (a) specifies the names and addresses of the parties;
  (b) includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;
  (c) sets out the express terms to be contained in the agreement;
  (d) sets out the terms to be implied by section 2(1) below; and
  (e) complies with such other requirements as may be prescribed by regulations made by the appropriate national authority.

(3) The written statement required by subsection (2) above must be given—
  (a) not later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
  (b) (if no such agreement is made before the making of the agreement to which this Act applies) not later than 28 days before the date on which the agreement to which this Act applies is made.

(4) But if the proposed occupier consents in writing to that statement being given to him by a date ("the chosen date") which is less than 28 days before the date mentioned in subsection (3)(a) or (b) above, the statement must be given to him not later than the chosen date.

(5) If any express term—
  (a) is contained in an agreement to which this Act applies, but
  (b) was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (4) above,

the term is unenforceable by the owner or any person within section 3(1) below.

This is subject to any order made by the court under section 2(3) below.

(6) If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, the occupier may, at any time after the making of the agreement, apply to the court for an order requiring the owner—

(a) to give him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), and

(b) to do so not later than such date as is specified in the order.

(7) A statement required to be given to a person under this section may be either delivered to him personally or sent to him by post.

(8) Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.

(9) Regulations under this section—

(a) shall be made by statutory instrument;

(b) if made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(c) may make different provision with respect to different cases or descriptions of case, including different provision for different areas."

(2) Section 2 of that Act (terms of agreements) is amended as follows—

(a) in subsection (2), for "within six months of the giving of the statement under section 1(2) above" substitute "within the relevant period"; and

(b) for subsection (3) substitute—

"(3) The court may, on the application of either party made within the relevant period, make an order—

(a) varying or deleting any express term of the agreement;

(b) in the case of any express term to which section 1(6) above applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.

(3A) In subsections (2) and (3) above "the relevant period" means the period beginning with the date on which the agreement is made and ending—

(a) six months after that date, or

(b) where a written statement relating to the agreement is given to the occupier after that date (whether or not in compliance with an order under section 1(6) above), six months after the date on which the statement is given;

and section 1(8) above applies for the purposes of this subsection as it applies for the purposes of section 1."

(3) In section 5(1) of that Act (interpretation) insert at the appropriate place—

"the appropriate national authority" means—
(a) in relation to England, the Secretary of State, and
(b) in relation to Wales, the National Assembly for Wales;".

(4) The amendments made by subsections (1) and (2) do not apply in relation to an agreement to which that Act applies where—
(a) the agreement, or
(b) (if it becomes one to which that Act applies as the result of any variation of it) the variation in question,

is made before the end of the period of 28 days beginning with the day on which those subsections come into force.

(5) The new section 1(9)(b) inserted by subsection (1) does not affect the continuing validity of any regulations made under section 1 of that Act before the passing of this Act.

207 Implied terms relating to termination of agreements or disposal of mobile homes

(1) Part 1 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) (terms implied in site agreements) is amended as follows.

(2) In paragraph 6 (termination by owner on ground of detrimental effect resulting from age and condition of mobile home)—
(a) omit "age and"; and
(b) after sub-paragraph (2) insert—

"(3) Sub-paragraphs (4) and (5) below apply if, on an application under sub-paragraph (1) above—
(a) the court considers that, having regard to the present condition of the mobile home, paragraph (a) or (b) of that sub-paragraph applies to it, but
(b) it also considers that it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in neither of those paragraphs applying to it, and
(c) the occupier indicates that he intends to carry out those repairs.

(4) In such a case the court may make an order adjourning proceedings on the application for such period specified in the order as the court considers reasonable to allow the repairs to be carried out.

The repairs must be set out in the order.

(5) If the court makes such an order, the application shall not be further proceeded with unless the court is satisfied that the specified period has expired without the repairs having been carried out."

(3) In paragraph 8 (sale of mobile home to person approved by owner)—

(a) after sub-paragraph (1) insert—

"(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.

(1B) Where the owner receives such a request, he must, within the period of 28 days beginning with the date on which he received the request—

(a) approve the person, unless it is reasonable for him not to do so, and

(b) serve on the occupier notice of his decision whether or not to approve the person.

(1C) A notice under sub-paragraph (1B) above must specify—

(a) if the approval is given subject to conditions, the conditions, and

(b) if the approval is withheld, the reasons for withholding it.

(1D) The giving of approval subject to any condition that is not a reasonable condition does not satisfy the requirement in sub-paragraph (1B)(a) above.

(1E) If the owner fails to notify the occupier as required by sub-paragraphs (1B) and (1C) above, the occupier may apply to the court for an order declaring that the person is approved for the purposes of sub-paragraph (1) above; and the court may make such an order if it thinks fit.

(1F) It is for the owner—

(a) if he served a notice as mentioned in sub-paragraphs (1B) and (1C) and the question arises whether he served the notice within the required period of 28 days, to show that he did;

(b) if he gave his approval subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was;

(c) if he did not give his approval and the question arises whether it was reasonable for him not to do so, to show that it was reasonable.

(1G) A request or notice under this paragraph—

(a) must be in writing, and

(b) may be served by post.";

(b) in sub-paragraph (2) for "the Secretary of State" substitute "the appropriate national authority"; and

(c) in sub-paragraph (3)(a) after "which" insert "(if made by the Secretary of State)".

(4) After the existing provisions of paragraph 9 (gift of mobile home to person approved by owner), which become sub-paragraph (1), insert—

"(2) Sub-paragraphs (1A) to (1G) of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph."

(5) After Part 2 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) insert—

"PART 3

SUPPLEMENTARY PROVISIONS

Duty to forward requests under paragraph 8 or 9 of Part 1

1 (1) This paragraph applies to—

(a) a request by the occupier for the owner to approve a person for the purposes of paragraph 8(1) of Part 1 (see paragraph 8(1A)), or

(b) a request by the occupier for the owner to approve a person for the purposes of paragraph 9(1) of Part 1 (see paragraph 8(1A) as applied by paragraph 9(2)).

(2) If a person ("the recipient") receives such a request and he—

(a) though not the owner, has an estate or interest in the protected site, and

(b) believes that another person is the owner (and that the other person has not received such a request),

the recipient owes a duty to the occupier to take such steps as are reasonable to secure that the other person receives the request within the period of 28 days beginning with the date on which the recipient receives it.

(3) In paragraph 8(1B) of Part 1 of this Schedule (as it applies to any request within sub-paragraph (1) above) any reference to the owner receiving such a request includes a reference to his receiving it in accordance with sub-paragraph (2) above.

Action for breach of duty under paragraph 1

2 (1) A claim that a person has broken the duty under paragraph 1(2) above may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.

(2) The right conferred by sub-paragraph (1) is in addition to any right to bring proceedings, in respect of a breach of any implied term having effect by virtue of paragraph 8 or 9 of Part 1 of this Schedule, against a person bound by that term."

(6) The amendments made by this section apply in relation to an agreement to which the Mobile Homes Act 1983 applies that was made before the day on which this section comes into force ("the appointed day"), as well as in relation to one made on or after that day.

Any reference in this subsection to the making of an agreement to which that Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which that Act applies.

(7) However—

(a) the amendments made by subsection (2) do not apply in relation to any application made before the appointed day for the purposes of paragraph 6 of Part 1 of Schedule 1 to that Act; and

(b) the amendments made by subsections (3)(a), (4) and (5) do not apply in relation to any request for approval made before the appointed day for

the purposes of paragraph 8(1) or (as the case may be) 9(1) of that Part of that Schedule.

208 Power to amend terms implied in site agreements

(1) After section 2 of the Mobile Homes Act 1983 (c. 34) insert—

"2A Power to amend implied terms

(1) The appropriate national authority may by order make such amendments of Part 1 or 2 of Schedule 1 to this Act as the authority considers appropriate.

(2) An order under this section—
  (a) shall be made by statutory instrument;
  (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas;
  (c) may contain such incidental, supplementary, consequential, transitional or saving provisions as the authority making the order considers appropriate.

(3) Without prejudice to the generality of subsections (1) and (2), an order under this section may—
  (a) make provision for or in connection with the determination by the court of such questions, or the making by the court of such orders, as are specified in the order;
  (b) make such amendments of any provision of this Act as the authority making the order considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of Schedule 1.

(4) The first order made under this section in relation to England or Wales respectively may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day).

(5) No order may be made by the appropriate national authority under this section unless the authority has consulted—
  (a) such organisations as appear to it to be representative of interests substantially affected by the order; and
  (b) such other persons as it considers appropriate.

(6) No order may be made by the Secretary of State under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament."

(2) For the purposes of subsection (5) of the section 2A inserted by this section, consultation undertaken before the date of the passing of this Act constitutes as effective compliance with that subsection as if undertaken on or after that date.

Protection from eviction etc.

209 Protected sites to include sites for gypsies

(1) Section 1 of the Caravan Sites Act 1968 (c. 52) (application of provisions for protection of residential occupiers of caravan sites) is amended as follows.

(2) In subsection (2) (under which "protected site" includes certain local authority sites) for "paragraph 11 of Schedule 1 to that Act (exemption of land occupied by local authorities) substitute "paragraph 11 or 11A of Schedule 1 to that Act (exemption of gypsy and other local authority sites)".

(3) The amendment made by subsection (2) above does not affect the operation of—

(a) section 2 of the Act (minimum length of notice) in relation to any notice given before the day on which this section comes into force, or

(b) section 3 of the Act (protection from eviction) in relation to any conduct occurring before that day, or

(c) section 4 of the Act (suspension of eviction orders) in relation to any proceedings begun before that day.

(4) In subsection (3)(b) the reference to section 3 of the Act is to that section whether as amended by section 210 of this Act or otherwise.

210 Extension of protection from harassment for occupiers of mobile homes

(1) Section 3 of the Caravan Sites Act 1968 (protection of occupiers against eviction and harassment) is amended as follows.

(2) In subsection (1) (offence where person, with the specified intent, does acts calculated to interfere with the peace or comfort of the occupier etc.) for "calculated to interfere" substitute "likely to interfere".

(3) After subsection (1) insert—

"(1A) Subject to the provisions of this section, the owner of a protected site or his agent shall be guilty of an offence under this section if, whether during the subsistence or after the expiration or determination of a residential contract—

(a) he does acts likely to interfere with the peace or comfort of the occupier or persons residing with him, or

(b) he persistently withdraws or withholds services or facilities reasonably required for the occupation of the caravan as a residence on the site,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to do any of the things mentioned in subsection (1)(c)(i) or (ii) of this section.

(1B) References in subsection (1A) of this section to the owner of a protected site include references to a person with an estate or interest in the site which is superior to that of the owner."

(4) In subsection (3) (penalties for offences), for the words from "be liable" onwards substitute "be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both."

(5) After subsection (4) insert—

"(4A) In proceedings for an offence under subsection (1A) of this section it shall be a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question."

(6) The amendments made by this section do not apply in relation to any conduct occurring before the day on which this section comes into force.

(7) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the amendment made by subsection (4) has effect as if for "12 months" there were substituted "6 months".

211 Suspension of eviction orders

(1) In section 4(6) of the Caravan Sites Act 1968 (c. 52) (provision for suspension of eviction orders) for the words from "in the following cases" to the end of paragraph (b) substitute "if—

(a) no site licence under Part 1 of that Act is in force in respect of the site, and

(b) paragraph 11 or 11A of Schedule 1 to the Caravan Sites and Control of Development Act 1960 (c. 2) does not apply;".

(2) The amendment made by subsection (1) does not apply in relation to proceedings begun before the day on which this section comes into force.

CHAPTER 4

TENANCY DEPOSIT SCHEMES

212 Tenancy deposit schemes

(1) The appropriate national authority must make arrangements for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies.

(2) For the purposes of this Chapter a "tenancy deposit scheme" is a scheme which—

(a) is made for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies and facilitating the resolution of disputes arising in connection with such deposits, and

(b) complies with the requirements of Schedule 10.

(3) Arrangements under subsection (1) must be arrangements made with any body or person under which the body or person ("the scheme administrator") undertakes to establish and maintain a tenancy deposit scheme of a description specified in the arrangements.

(4) The appropriate national authority may—

(a) give financial assistance to the scheme administrator;

(b) make payments to the scheme administrator (otherwise than as financial assistance) in pursuance of arrangements under subsection (1).

(5) The appropriate national authority may, in such manner and on such terms as it thinks fit, guarantee the discharge of any financial obligation incurred by the scheme administrator in connection with arrangements under subsection (1).

(6) Arrangements under subsection (1) must require the scheme administrator to give the appropriate national authority, in such manner and at such times as it may specify, such information and facilities for obtaining information as it may specify.

(7) The appropriate national authority may make regulations conferring or imposing—

(a) on scheme administrators, or

(b) on scheme administrators of any description specified in the regulations,

such powers or duties in connection with arrangements under subsection (1) as are so specified.

(8) In this Chapter—

"authorised", in relation to a tenancy deposit scheme, means that the scheme is in force in accordance with arrangements under subsection (1);

"custodial scheme" and "insurance scheme" have the meaning given by paragraph 1(2) and (3) of Schedule 10);

"money" means money in the form of cash or otherwise;

"shorthold tenancy" means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988 (c. 50);

"tenancy deposit", in relation to a shorthold tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

(a) the performance of any obligations of the tenant, or

(b) the discharge of any liability of his,

arising under or in connection with the tenancy.

(9) In this Chapter—

(a) references to a landlord or landlords in relation to any shorthold tenancy or tenancies include references to a person or persons acting on his or their behalf in relation to the tenancy or tenancies, and

(b) references to a tenancy deposit being held in accordance with a scheme include, in the case of a custodial scheme, references to an amount representing the deposit being held in accordance with the scheme.

213 Requirements relating to tenancy deposits

(1) Any tenancy deposit paid to a person in connection with a shorthold tenancy must, as from the time when it is received, be dealt with in accordance with an authorised scheme.

(2) No person may require the payment of a tenancy deposit in connection with a shorthold tenancy which is not to be subject to the requirement in subsection (1).

(3) Where a landlord receives a tenancy deposit in connection with a shorthold tenancy, the initial requirements of an authorised scheme must be complied with by the landlord in relation to the deposit within the period of 14 days beginning with the date on which it is received.

(4) For the purposes of this section "the initial requirements" of an authorised scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.

(5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—
  (a) the authorised scheme applying to the deposit,
  (b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and
  (c) the operation of provisions of this Chapter in relation to the deposit,

as may be prescribed.

(6) The information required by subsection (5) must be given to the tenant and any relevant person—
  (a) in the prescribed form or in a form substantially to the same effect, and
  (b) within the period of 14 days beginning with the date on which the deposit is received by the landlord.

(7) No person may, in connection with a shorthold tenancy, require a deposit which consists of property other than money.

(8) In subsection (7) "deposit" means a transfer of property intended to be held (by the landlord or otherwise) as security for—
  (a) the performance of any obligations of the tenant, or
  (b) the discharge of any liability of his,

arising under or in connection with the tenancy.

(9) The provisions of this section apply despite any agreement to the contrary.

(10) In this section—
  "prescribed" means prescribed by an order made by the appropriate national authority;
  "property" means moveable property;
  "relevant person" means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.

214 Proceedings relating to tenancy deposits

(1) Where a tenancy deposit has been paid in connection with a shorthold tenancy, the tenant or any relevant person (as defined by section 213(10)) may make an application to a county court on the grounds—
  (a) that the initial requirements of an authorised scheme (see section 213(4)) have not, or section 213(6)(a) has not, been complied with in relation to the deposit; or
  (b) that he has been notified by the landlord that a particular authorised scheme applies to the deposit but has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.

(2) Subsections (3) and (4) apply if on such an application the court—
  (a) is satisfied that those requirements have not, or section 213(6)(a) has not, been complied with in relation to the deposit, or
  (b) is not satisfied that the deposit is being held in accordance with an authorised scheme,

as the case may be.

(3) The court must, as it thinks fit, either—
  (a) order the person who appears to the court to be holding the deposit to repay it to the applicant, or
  (b) order that person to pay the deposit into the designated account held by the scheme administrator under an authorised custodial scheme,

within the period of 14 days beginning with the date of the making of the order.

(4) The court must also order the landlord to pay to the applicant a sum of money equal to three times the amount of the deposit within the period of 14 days beginning with the date of the making of the order.

(5) Where any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), the property in question is recoverable from the person holding it by the person by whom it was given as a deposit.

(6) In subsection (5) "deposit" has the meaning given by section 213(8).

215 Sanctions for non-compliance

(1) If a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when—
  (a) the deposit is not being held in accordance with an authorised scheme, or
  (b) the initial requirements of such a scheme (see section 213(4)) have not been complied with in relation to the deposit.

(2) If section 213(6) is not complied with in relation to a deposit given in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy until such time as section 213(6)(a) is complied with.

(3) If any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), no section 21 notice may be given in relation to the tenancy until such time as the property in question is returned to the person by whom it was given as a deposit.

(4) In subsection (3) "deposit" has the meaning given by section 213(8).

(5) In this section a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy).

CHAPTER 5

MISCELLANEOUS

Overcrowding

216 Overcrowding

(1) The appropriate national authority may by order make such provision as it considers appropriate for and in connection with—
  (a) determining whether a dwelling is overcrowded for the purposes of Part 10 of the Housing Act 1985 (c. 68) (overcrowding);
  (b) introducing for the purposes of Chapter 3 of Part 4 of this Act a concept of overcrowding similar to that applying for the purposes of Part 10 (and accordingly removing the discretion of local housing authorities to decide particular issues arising under those sections);
  (c) securing that overcrowding in premises to which Chapter 3 of Part 4 of this Act would otherwise apply, or any description of such premises, is regulated only by provisions of Part 10.

(2) An order under this section may, in particular, make provision for regulating the making by local housing authorities of determinations as to whether premises are overcrowded, including provision prescribing—
  (a) factors that must be taken into account by such authorities when making such determinations;
  (b) the procedure that is to be followed by them in connection with making such determinations.

(3) An order under this section may modify any enactment (including this Act).

(4) In this section—
  (a) any reference to Part 10 of the Housing Act 1985 includes a reference to Part 10 as modified by an order under this section; and
  (b) "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Energy efficiency

217 Energy efficiency of residential accommodation: England

(1) The Secretary of State must take reasonable steps to ensure that by 2010 the general level of energy efficiency of residential accommodation in England has increased by at least 20 per cent compared with the general level of such energy efficiency in 2000.

(2) Nothing in this section affects the duties of the Secretary of State under section 2 of the Sustainable Energy Act 2003 (c. 30) (energy efficiency aim in respect of residential accommodation in England).

(3) In this section "residential accommodation" has the meaning given by section 1 of the Home Energy Conservation Act 1995 (c. 10).

Registered social landlords

218 Amendments relating to registered social landlords

Schedule 11 (which makes amendments relating to registered social landlords) has effect.

219 Disclosure of information to registered social landlords for the purposes of section 1 of the Crime and Disorder Act 1998

In section 115(2) of the Crime and Disorder Act 1998 (c. 37) after paragraph (d) insert—

"(da) a person registered under section 1 of the Housing Act 1996 as a social landlord;".

Other provisions relating to social housing

220 Additional power to give grants for social housing

After section 27 of the Housing Act 1996 (c. 52) insert—

"Grants to bodies other than registered social landlords

27A Grants to bodies other than registered social landlords

(1) The Relevant Authority may make grants under this section to persons other than registered social landlords.

(2) Grants under this section are grants for any of the following purposes—

(a) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of—

(i) under equity percentage arrangements, or

(ii) on shared ownership terms;

(b) constructing houses to be disposed of—

(i) under equity percentage arrangements, or

(ii) on shared ownership terms;

(c) providing loans to be secured by mortgages to assist persons to acquire houses for their own occupation;

(d) providing, constructing or improving houses to be kept available for letting;

(e) providing, constructing or improving houses for letting that are to be managed by such registered social landlords, and under arrangements containing such terms, as are approved by the Relevant Authority;

(f) such other purposes as may be specified in an order under subsection (3).

(3) The Secretary of State may by order make such provision in connection with the making of grants under this section as he considers appropriate.

(4) An order under subsection (3) may, in particular, make provision—

(a) defining "equity percentage arrangements" for the purposes of this section;

(b) specifying or describing the bodies from whom loans may be obtained by persons wishing to acquire houses for their own occupation;

(c) dealing with the priority of mortgages entered into by such persons;

(d) specifying purposes additional to those mentioned in subsection (2)(a) to (e).

(5) As regards grants made by the Housing Corporation, an order under subsection (3) may also require the imposition of conditions in connection with such grants, and for this purpose may—

(a) prescribe conditions that are to be so imposed;

(b) prescribe matters about which conditions are to be so imposed and any particular effects that such conditions are to achieve.

(6) The Relevant Authority shall specify in relation to grants under this section—

(a) the procedure to be followed in relation to applications for grant,

(b) the circumstances in which grant is or is not to be payable,

(c) the method for calculating, and any limitations on, the amount of grant, and

(d) the manner in which, and the time or times at which, grant is to be paid.

(7) If, by virtue of subsection (5), an order under subsection (3) requires conditions to be imposed by the Housing Corporation in connection with a grant to a person under this section, the Corporation in making the grant—

(a) must provide that the grant is conditional on compliance by the person with such conditions as are required by the order; and

(b) if it exercises its power to impose conditions under subsection (8), must not impose any that are inconsistent with the requirements of the order.

(8) In making a grant to a person under this section the Relevant Authority may provide that the grant is conditional on compliance by the person with such conditions as the Authority may specify.

(9) The conditions that may be so specified include conditions requiring the payment to the Relevant Authority in specified circumstances of a sum determined by the Authority (with or without interest).

(10) An order under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) In this section—

"disposed of on shared ownership terms" has the meaning given by section 2(6);

"letting" includes the grant of a licence to occupy.

27B Transfer of property funded by grants under section 27A

(1) Where—

(a) any grant is paid or payable to any person under section 27A, and

(b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another person who is not a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 27A.

(2) Where—

(a) any amount is paid or payable to any person by way of grant under section 27A, and

(b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 18.

(3) In such a case, the relevant section 18 conditions accordingly apply to that grant or proportion of it, in relation to times falling after that time, in place of those specified under section 27A(8).

"The relevant section 18 conditions" means such conditions specified under section 18(3) as would have applied at the time of the making of the grant if it had been made under section 18 to a registered social landlord.

(4) The proportion mentioned in subsection (1) or (2) is that which, in the circumstances of the particular case—

(a) the Relevant Authority, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or

(b) the Relevant Authority may determine to be appropriate."

221 Extension of right to acquire

After section 16 of the Housing Act 1996 (c. 52) insert—

"16A Extension of section 16 to dwellings funded by grants under section 27A

(1) Section 16 applies in relation to a dwelling ("a funded dwelling") provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.

(2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.

(3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.

(4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if, since it was acquired or provided as mentioned in subsection (1) above, it was used—

(a) by the recipient of the grant mentioned in that subsection, or

(b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid,

exclusively for the purposes for which the grant was made or any other purposes agreed to by the Relevant Authority.

(5) In subsection (4) "relevant time" means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3)."

222 Rights of pre-emption in connection with assured tenancies

(1) Section 5 of the Housing Act 1988 (c. 50) (security of tenure for assured tenants) is amended as follows.

(2) After subsection (5) (certain obligations etc. of tenant to be unenforceable) insert—

"(5A) Nothing in subsection (5) affects any right of pre-emption—

(a) which is exercisable by the landlord under a tenancy in circumstances where the tenant indicates his intention to dispose of the whole of his interest under the tenancy, and

(b) in pursuance of which the landlord would be required to pay, in respect of the acquisition of that interest, an amount representing its market value.

"Dispose" means dispose by assignment or surrender, and "acquisition" has a corresponding meaning."

(3) The amendment made by subsection (2) does not apply in relation to any right of pre-emption granted before the day on which this section comes into force.

223 Allocation of housing accommodation by local authorities

In section 167(2)(d) of the Housing Act 1996 (c. 52) (people to whom preference is to be given in allocating housing accommodation) after "medical or welfare grounds" insert "(including grounds relating to a disability)".

Disabled facilities grant

224 Disabled facilities grant: caravans

(1) The Housing Grants, Construction and Regeneration Act 1996 (c. 53) is amended as follows.

(2) In section 1(1)(c)(i) (grants in relation to qualifying park homes) for "qualifying park homes" substitute "caravans".

(3) In section 19(1) (applications for grants) for paragraph (c) substitute—

"(c) that the applicant is an occupier (alone or jointly with others) of a qualifying houseboat or a caravan and, in the case of a caravan, that at the time the application was made the caravan was stationed on land within the authority's area."

(4) In section 22A (certificates required in case of occupier's application)—

(a) for "qualifying park home" in subsection (2)(b) and (3)(a) and (b) substitute "caravan", and

(b) for "pitch" in subsection (3)(a) substitute "land".

(5) In the following provisions for "qualifying park home" substitute "caravan"—

(a) section 23(1)(a)(i), (b)(i), (i) and (k) (purposes of grant);

(b) section 24(3)(b)(i) (approval of application);

(c) section 29(3) (restriction on grants for works already begun);

(d) section 41(1)(b) (change of circumstances).

(6) In section 57(2)(a) (power of authority to carry out works)—

(a) for "qualifying park home", in each place where it occurs, substitute "caravan", and

(b) for "pitch" in sub-paragraph (i) substitute "land".

(7) In section 58 (minor definitions for the purposes of Chapter 1 of Part 1)—

(a) before the definition of "common parts" insert—

""caravan"—

(a) means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968); and

(b) includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;" and

(b) for "qualifying park home" in the definition of "premises" substitute "caravan", and

(c) omit the definition of "qualifying park home".

(8) In section 59 (index of defined expressions)—

(a) before the entry relating to "certified date" insert—

"caravan	section 58"; and

(b) omit the entry relating to "qualifying park home".

(9) The amendments made by this section do not apply in relation to any application for a disabled facilities grant under the Housing Grants, Construction and Regeneration Act 1996 (c. 53) that is made before the day on which this section comes into force.

Accommodation needs of gypsies and travellers

225 Duties of local housing authorities: accommodation needs of gypsies and travellers

(1) Every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985 (c. 68), carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.

(2) Subsection (3) applies where a local housing authority are required under section 87 of the Local Government Act 2003 (c. 26) to prepare a strategy in respect of the meeting of such accommodation needs.

(3) The local authority who are that local housing authority must take the strategy into account in exercising their functions.

"Functions" includes functions exercisable otherwise than as a local housing authority.

(4) A local housing authority must have regard to any guidance issued under section 226 in—

(a) carrying out such an assessment as mentioned in subsection (1), and

(b) preparing any strategy that they are required to prepare as mentioned in subsection (2).

(5) In this section—

(a) "gypsies and travellers" has the meaning given by regulations made by the appropriate national authority;

(b) "accommodation needs" includes needs with respect to the provision of sites on which caravans can be stationed; and

(c) "caravan" has the same meaning as in Part 1 of the Caravan Sites and Control of Development Act 1960.

226 Guidance in relation to section 225

(1) The appropriate national authority may issue guidance to local housing authorities regarding—

(a) the carrying out of assessments under section 225(1), and

(b) the preparation of any strategies that local housing authorities are required to prepare as mentioned in section 225(2).

(2) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.

(3) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).

(4) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (3), either House resolves that the guidance or alterations be withdrawn.

(5) Subsection (4) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.

(6) In calculating the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

Annual reports by local housing authorities

227 Removal of duty on local housing authorities to send annual reports to tenants etc.

Omit section 167 of the Local Government and Housing Act 1989 (c. 42) (duty of local housing authorities to send annual reports to tenants).

Social Housing Ombudsman for Wales

228 Social Housing Ombudsman for Wales

(1) After subsection (6) of section 51 of the Housing Act 1996 (c. 52) (schemes for investigation of housing complaints) insert—

"(7) This section shall not apply in relation to social landlords in Wales (within the meaning given by section 51C)."

(2) After that section insert—

"51A Social Housing Ombudsman for Wales

(1) For the purpose of the investigation of complaints made about social landlords in Wales, there shall be an office of Social Housing Ombudsman for Wales or Ombwdsmon Tai Cymdeithasol Cymru.

(2) The person who is the Local Commissioner for Wales shall also be the Social Housing Ombudsman for Wales.

(3) If there is more than one person who is a Local Commissioner for Wales, the Commission for Local Administration in Wales shall designate one of them to be the Social Housing Ombudsman for Wales.

(4) If a person who is the Social Housing Ombudsman for Wales ceases to be a Local Commissioner for Wales, he shall cease to be the Social Housing Ombudsman for Wales.

(5) The power under section 23(6) of the Local Government Act 1974 to remove a Local Commissioner for Wales from office on grounds of incapacity or misbehaviour includes a power to remove him from that office on grounds of incapacity or misbehaviour which are exclusively or partly relevant to the office of Social Housing Ombudsman for Wales.

(6) "Local Commissioner for Wales" shall be construed in accordance with section 23 of the Local Government Act 1974.

(7) Schedule 2A (which contains further provision about the Social Housing Ombudsman for Wales) shall have effect.

51B Investigation of complaints

(1) The National Assembly for Wales may by regulations make provision about the investigation by the Social Housing Ombudsman for Wales of complaints made about social landlords in Wales.

(2) Regulations under subsection (1) may in particular make provision about—

(a) the matters about which complaints may be made;

(b) the grounds on which a matter may be excluded from investigation, including that the matter is the subject of court proceedings or was the subject of court proceedings where judgment on the merits was given;

(c) the description of individual who may make a complaint;

(d) a power of the Social Housing Ombudsman for Wales to investigate any complaint duly made (whether the complaint is subsequently withdrawn or not), and, where he investigates, the making of a determination;

(e) a power of the Social Housing Ombudsman for Wales to propose alternative methods of resolving a dispute;

(f) the powers of the Social Housing Ombudsman for Wales for the purposes of his investigations (including powers to consult and co-operate with other persons), and the procedure to be followed in the conduct of investigations;

(g) the powers of the Social Housing Ombudsman for Wales on making a determination, which may include power—

(i) to make recommendations as to action to be taken to remedy any injustice to the person aggrieved and to prevent any similar injustice being caused in the future,

(ii) to make orders with regard to the payment of compensation or to order that a person is not to exercise, or require the performance of, certain rights or obligations, and

(iii) to publish statements, or to make orders requiring the publication of statements, that a person has failed to comply with an order mentioned in sub-paragraph (ii);

(h) the manner in which determinations are to be—

(i) communicated to the complainant and the person against whom the complaint was made; and

(ii) published (with or without excisions).

(3) Regulations under this section may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.

(4) Regulations under this section may make different provision for different cases or descriptions of case.

(5) Regulations under this section shall be made by statutory instrument.

51C Meaning of "social landlord in Wales"

(1) "Social landlord in Wales" means—

(a) a body which is registered as a social landlord in the register maintained by the National Assembly for Wales under section 1 of this Act;

(b) a body which was at any time registered as a social landlord in that register (or in the register previously maintained under that section by the Secretary of State or Housing for Wales); and

(c) any other body which was at any time registered with Housing for Wales, the Secretary of State or the National Assembly for Wales and which owns or manages publicly-funded dwellings.

(2) In subsection (1)(c) a "publicly-funded" dwelling means a dwelling which was—

(a) provided by means of a grant under—

(i) section 18 of this Act (social housing grant); or

(ii) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985, or section 29 or 29A of the Housing Act 1974 (housing association grant); or

(b) acquired on a disposal by a public sector landlord.

(3) The National Assembly for Wales may by order made by statutory instrument add to or amend the descriptions of landlords who are to be treated as social landlords in Wales.

(4) Before making any such order the National Assembly for Wales shall consult such persons as it considers appropriate.

(5) Any such order may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate."

(3) After Schedule 2 to that Act there is inserted, as Schedule 2A, the Schedule set out in Schedule 12 to this Act.

(4) In Schedule 4 to the Local Government Act 1974 (c. 7), in paragraph 1(3) (validity of acts despite disqualification for being appointed as, or for being, a Local Commissioner) after "office" there is inserted "or in the office of Social Housing Ombudsman for Wales".

PART 7

SUPPLEMENTARY AND FINAL PROVISIONS

Residential property tribunals

229 Residential property tribunals

(1) Any jurisdiction conferred on a residential property tribunal by or under any enactment is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c. 42).

(2) When so constituted for exercising any such jurisdiction a rent assessment committee is known as a residential property tribunal.

(3) The appropriate national authority may by order make provision for and in connection with conferring on residential property tribunals, in relation to such matters as are specified in the order, such jurisdiction as is so specified.

(4) An order under subsection (3) may modify an enactment (including this Act).

(5) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

230 Powers and procedure of residential property tribunals

(1) A residential property tribunal exercising any jurisdiction by virtue of any enactment has, in addition to any specific powers exercisable by it in exercising that jurisdiction, the general power mentioned in subsection (2).

(2) The tribunal's general power is a power by order to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue raised in or in connection with them.

(3) In deciding whether to give directions under its general power a tribunal must have regard to—
  (a) the matters falling to be determined in the proceedings,
  (b) any other circumstances appearing to the tribunal to be relevant, and
  (c) the provisions of the enactment by virtue of which it is exercising jurisdiction and of any other enactment appearing to it to be relevant.

(4) A tribunal may give directions under its general power whether or not they were originally sought by a party to the proceedings.

(5) When exercising jurisdiction under this Act, the directions which may be given by a tribunal under its general power include (where appropriate)—
  (a) directions requiring a licence to be granted under Part 2 or 3 of this Act;
  (b) directions requiring any licence so granted to contain such terms as are specified in the directions;
  (c) directions requiring any order made under Part 4 of this Act to contain such terms as are so specified;
  (d) directions that any building or part of a building so specified is to be treated as if an HMO declaration had been served in respect of it on such date as is so specified (without there being any right to appeal against it under section 255(9));
  (e) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

(6) Nothing in any enactment conferring specific powers on a residential property tribunal is to be regarded as affecting the operation of the preceding provisions of this section.

(7) Schedule 13 (residential property tribunals: procedure) has effect.

(8) Section 229(5) applies also for the purposes of this section and Schedule 13.

231 Appeals from residential property tribunals

(1) A party to proceedings before a residential property tribunal may appeal to the Lands Tribunal from a decision of the residential property tribunal.

(2) But the appeal may only be made—

(a) with the permission of the residential property tribunal or the Lands Tribunal, and

(b) within the time specified by rules under section 3(6) of the Lands Tribunal Act 1949 (c. 42).

(3) On the appeal—

(a) the Lands Tribunal may exercise any power which was available to the residential property tribunal, and

(b) a decision of the Lands Tribunal may be enforced in the same way as a decision of the residential property tribunal.

(4) Section 11(1) of the Tribunals and Inquiries Act 1992 (c. 53) (appeals from certain tribunals to High Court) does not apply to any decision of a residential property tribunal.

(5) For the purposes of section 3(4) of the Lands Tribunal Act 1949 (which enables a person aggrieved by a decision of the Lands Tribunal to appeal to the Court of Appeal) a residential property tribunal is not to be regarded as an aggrieved person.

Register of licences and management orders

232 Register of licences and management orders

(1) Every local housing authority must establish and maintain a register of—

(a) all licences granted by them under Part 2 or 3 which are in force;

(b) all temporary exemption notices served by them under section 62 or section 86 which are in force; and

(c) all management orders made by them under Chapter 1 or 2 of Part 4 which are in force.

(2) The register may, subject to any requirements that may be prescribed, be in such form as the authority consider appropriate.

(3) Each entry in the register is to contain such particulars as may be prescribed.

(4) The authority must ensure that the contents of the register are available at the authority's head office for inspection by members of the public at all reasonable times.

(5) If requested by a person to do so and subject to payment of such reasonable fee (if any) as the authority may determine, a local housing authority must supply the person with a copy (certified to be true) of the register or of an extract from it.

(6) A copy so certified is prima facie evidence of the matters mentioned in it.

(7) In this section "prescribed" means prescribed by regulations made by the appropriate national authority.

Codes of practice and management regulations relating to HMOs etc.

233 Approval of codes of practice with regard to the management of HMOs etc.

(1) The appropriate national authority may by order—

(a) approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of houses in multiple occupation or of excepted accommodation;
(b) approve a modification of such a code; or
(c) withdraw the authority's approval of such a code or modification.

(2) Before approving a code of practice or a modification of a code of practice under this section the appropriate national authority must take reasonable steps to consult—
(a) persons involved in the management of houses in multiple occupation or (as the case may be) excepted accommodation of the kind in question and persons occupying such houses or accommodation, or
(b) persons whom the authority considers to represent the interests of those persons.

(3) The appropriate national authority may only approve a code of practice or a modification of a code if satisfied that—
(a) the code or modification has been published (whether by the authority or by another person) in a manner that the authority considers appropriate for the purpose of bringing the code or modification to the attention of those likely to be affected by it; or
(b) arrangements have been made for the code or modification to be so published.

(4) The appropriate national authority may approve a code of practice which makes different provision in relation to different cases or descriptions of case (including different provision for different areas).

(5) A failure to comply with a code of practice for the time being approved under this section does not of itself make a person liable to any civil or criminal proceedings.

(6) In this section "excepted accommodation" means such description of living accommodation falling within any provision of Schedule 14 (buildings which are not HMOs for purposes of provisions other than Part 1) as is specified in an order under subsection (1).

234 Management regulations in respect of HMOs

(1) The appropriate national authority may by regulations make provision for the purpose of ensuring that, in respect of every house in multiple occupation of a description specified in the regulations—
(a) there are in place satisfactory management arrangements; and
(b) satisfactory standards of management are observed.

(2) The regulations may, in particular—
(a) impose duties on the person managing a house in respect of the repair, maintenance, cleanliness and good order of the house and facilities and equipment in it;
(b) impose duties on persons occupying a house for the purpose of ensuring that the person managing the house can effectively carry out any duty imposed on him by the regulations.

(3) A person commits an offence if he fails to comply with a regulation under this section.

(4) In proceedings against a person for an offence under subsection (3) it is a defence that he had a reasonable excuse for not complying with the regulation.

(5) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Information provisions

235 Power to require documents to be produced

(1) A person authorised in writing by a local housing authority may exercise the power conferred by subsection (2) in relation to documents reasonably required by the authority—
   (a) for any purpose connected with the exercise of any of the authority's functions under any of Parts 1 to 4 in relation to any premises, or
   (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.

(2) A person so authorised may give a notice to a relevant person requiring him—
   (a) to produce any documents which—
      (i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and
      (ii) are in his custody or under his control, and
   (b) to produce them at a time and place so specified and to a person so specified.

(3) The notice must include information about the possible consequences of not complying with the notice.

(4) The person to whom any document is produced in accordance with the notice may copy the document.

(5) No person may be required under this section to produce any document which he would be entitled to refuse to provide in proceedings in the High Court on grounds of legal professional privilege.

(6) In this section "document" includes information recorded otherwise than in legible form, and in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.

(7) In this section "relevant person" means, in relation to any premises, a person within any of the following paragraphs—
   (a) a person who is, or is proposed to be, the holder of a licence under Part 2 or 3 in respect of the premises, or a person on whom any obligation or restriction under such a licence is, or is proposed to be, imposed,
   (b) a person who has an estate or interest in the premises,
   (c) a person who is, or is proposing to be, managing or having control of the premises,
   (d) a person who is, or is proposing to be, otherwise involved in the management of the premises,
   (e) a person who occupies the premises.

236 Enforcement of powers to obtain information

(1) A person commits an offence if he fails to do anything required of him by a notice under section 235.

(2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person commits an offence if he intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 235.

(5) A person who commits an offence under subsection (4) is liable—
  (a) on summary conviction, to a fine not exceeding the statutory maximum;
  (b) on conviction on indictment, to a fine.

(6) In this section "document" includes information recorded otherwise than in legible form, and in relation to information so recorded—
  (a) the reference to the production of a document is a reference to the production of a copy of the information in legible form, and
  (b) the reference to suppressing a document includes a reference to destroying the means of reproducing the information.

237 Use of information obtained for certain other statutory purposes

(1) A local housing authority may use any information to which this section applies—
  (a) for any purpose connected with the exercise of any of the authority's functions under any of Parts 1 to 4 in relation to any premises, or
  (b) for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.

(2) This section applies to any information which has been obtained by the authority in the exercise of functions under—
  (a) section 134 of the Social Security Administration Act 1992 (c. 5) (housing benefit), or
  (b) Part 1 of the Local Government Finance Act 1992 (c. 14) (council tax).

238 False or misleading information

(1) A person commits an offence if—
  (a) he supplies any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part,
  (b) the information is false or misleading, and
  (c) he knows that it is false or misleading or is reckless as to whether it is false or misleading.

(2) A person commits an offence if—
  (a) he supplies any information to another person which is false or misleading,

(b) he knows that it is false or misleading or is reckless as to whether it is false or misleading, and

(c) he knows that the information is to be used for the purpose of supplying information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 or this Part.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) In this section "false or misleading" means false or misleading in any material respect.

Enforcement

239 Powers of entry

(1) Subsection (3) applies where the local housing authority consider that a survey or examination of any premises is necessary and any of the following conditions is met —

(a) the authority consider that the survey or examination is necessary in order to carry out an inspection under section 4(1) or otherwise to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;

(b) the premises are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order;

(c) a management order is in force under Chapter 1 or 2 of Part 4 in respect of the premises.

(2) Subsection (3) also applies where the proper officer of the local housing authority considers that a survey or examination of any premises is necessary in order to carry out an inspection under section 4(2).

(3) Where this subsection applies—

(a) a person authorised by the local housing authority (in a case within subsection (1)), or

(b) the proper officer (in a case within subsection (2)),

may enter the premises in question at any reasonable time for the purpose of carrying out a survey or examination of the premises.

(4) If—

(a) an interim or final management order is in force under Chapter 1 of Part 4 in respect of any premises consisting of part of a house ("the relevant premises"), and

(b) another part of the house is excluded from the order by virtue of section 102(8) or 113(7),

the power of entry conferred by subsection (3) is exercisable in relation to any premises comprised in that other part so far as is necessary for the purpose of carrying out a survey or examination of the relevant premises.

(5) Before entering any premises in exercise of the power conferred by subsection (3), the authorised person or proper officer must have given at least 24 hours' notice of his intention to do so—

(a) to the owner of the premises (if known), and

(b) to the occupier (if any).

(6) Subsection (7) applies where the local housing authority consider that any premises need to be entered for the purpose of ascertaining whether an offence has been committed under section 72, 95 or 234(3).

(7) A person authorised by the local housing authority may enter the premises for that purpose—
  (a) at any reasonable time, but
  (b) without giving any prior notice as mentioned in subsection (5).

(8) A person exercising the power of entry conferred by subsection (3) or (7) may do such of the following as he thinks necessary for the purpose for which the power is being exercised—
  (a) take other persons with him;
  (b) take equipment or materials with him;
  (c) take measurements or photographs or make recordings;
  (d) leave recording equipment on the premises for later collection;
  (e) take samples of any articles or substances found on the premises.

(9) An authorisation for the purposes of this section—
  (a) must be in writing; and
  (b) must state the particular purpose or purposes for which the entry is authorised.

(10) A person authorised for the purposes of this section must, if required to do so, produce his authorisation for inspection by the owner or any occupier of the premises or anyone acting on his behalf.

(11) If the premises are unoccupied or the occupier is temporarily absent, a person exercising the power of entry conferred by subsection (3) or (7) must leave the premises as effectively secured against trespassers as he found them.

(12) In this section "occupier", in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

240 Warrant to authorise entry

(1) This section applies where a justice of the peace is satisfied, on a sworn information in writing, that admission to premises specified in the information is reasonably required for any of the purposes mentioned in subsection (2) by a person—
  (a) employed by, or
  (b) acting on the instructions of,
  the local housing authority.

(2) The purposes are—
  (a) surveying or examining premises in order to carry out an inspection under section 4(1) or (2) or otherwise to determine whether any functions under any of Parts 1 to 4 or this Part should be exercised in relation to the premises;
  (b) surveying or examining premises—
    (i) which are (within the meaning of Part 1) specified premises in relation to an improvement notice or prohibition order, or
    (ii) in respect of which a management order is in force under Chapter 1 or 2 of Part 4;

(c) ascertaining whether an offence has been committed under section 72, 95 or 234(3).

(3) The justice may by warrant under his hand authorise the person mentioned in subsection (1) to enter on the premises for such of those purposes as may be specified in the warrant.

(4) But the justice must not grant the warrant unless he is satisfied—

(a) that admission to the premises has been sought in accordance with section 239(5) or (7) but has been refused;

(b) that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the purpose of the entry to await his return; or

(c) that application for admission would defeat the purpose of the entry.

(5) The power of entry conferred by a warrant under this section includes power to enter by force (if necessary).

(6) Subsection (8) of section 239 applies to the person on whom that power is conferred as it applies to a person exercising the power of entry conferred by subsection (3) or (7) of that section.

(7) A warrant under this section must, if so required, be produced for inspection by the owner or any occupier of the premises or anyone acting on his behalf.

(8) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of a warrant under this section must leave the premises as effectively secured against trespassers as he found them.

(9) A warrant under this section continues in force until the purpose for which the entry is required is satisfied.

(10) In a case within section 239(4)(a) and (b), the powers conferred by this section are exercisable in relation to premises comprised in the excluded part of the house as well as in relation to the relevant premises.

(11) In this section "occupier", in relation to premises, means a person who occupies the premises, whether for residential or other purposes.

241 Penalty for obstruction

(1) A person who obstructs a relevant person in the performance of anything which, by virtue of any of Parts 1 to 4 or this Part, that person is required or authorised to do commits an offence.

(2) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for obstructing the relevant person.

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) In this section "relevant person" means an officer of a local housing authority or any person authorised to enter premises by virtue of any of Parts 1 to 4 or section 239 or 240.

242 Additional notice requirements for protection of owners

(1) This section applies where an owner of premises gives a notice to the local housing authority for the purposes of this section informing them of his interest in the premises.

(2) The authority must give him notice of any action taken by them under any of Parts 1 to 4 or this Part in relation to the premises.

Authorisations

243 Authorisations for enforcement purposes etc.

(1) This section applies to any authorisation given for the purposes of any of the following provisions—
   (a) section 131 (management orders: power of entry to carry out work),
   (b) section 235 (power to require documents to be produced),
   (c) section 239 (powers of entry),
   (d) paragraph 3(4) of Schedule 3 (improvement notices: power to enter to carry out work), and
   (e) paragraph 25 of Schedule 7 (EDMOs: power of entry to carry out work).

(2) Any such authorisation must be given by the appropriate officer of the local housing authority.

(3) For the purposes of this section a person is an "appropriate officer" of a local housing authority, in relation to an authorisation given by the authority, if either—
   (a) he is a deputy chief officer of the authority (within the meaning of section 2 of the Local Government and Housing Act 1989 (c. 42)), and
   (b) the duties of his post consist of or include duties relating to the exercise of the functions of the authority in connection with which the authorisation is given,

   or he is an officer of the authority to whom such a deputy chief officer reports directly, or is directly accountable, as respects duties so relating.

Documents

244 Power to prescribe forms

(1) The appropriate national authority may by regulations prescribe the form of any notice, statement or other document which is required or authorised to be used under, or for the purposes of, this Act.

(2) The power conferred by this section is not exercisable where specific provision for prescribing the form of a document is made elsewhere in this Act.

245 Power to dispense with notices

(1) The appropriate national authority may dispense with the service of a notice which is required to be served by a local housing authority under this Act if satisfied that it is reasonable to do so.

(2) A dispensation may be given either before or after the time at which the notice is required to be served.

(3) A dispensation may be given either unconditionally or on such conditions (whether as to the service of other notices or otherwise) as the appropriate national authority considers appropriate.

(4) Before giving a dispensation under this section, the appropriate national authority shall, in particular, have regard to the need to ensure, so far as possible, that the interests of any person are not prejudiced by the dispensation.

246 Service of documents

(1) Subsection (2) applies where the local housing authority is, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve a document on a person who, to the knowledge of the authority, is—

(a) a person having control of premises,

(b) a person managing premises, or

(c) a person having an estate or interest in premises,

or a person who (but for an interim or final management order under Chapter 1 of Part 4) would fall within paragraph (a) or (b).

(2) The local housing authority must take reasonable steps to identify the person or persons falling within the description in that provision.

(3) A person having an estate or interest in premises may for the purposes of any provision to which subsections (1) and (2) apply give notice to the local housing authority of his interest in the premises.

(4) The local housing authority must enter a notice under subsection (3) in its records.

(5) A document required or authorised by any of Parts 1 to 4 or this Part to be served on a person as—

(a) a person having control of premises,

(b) a person managing premises,

(c) a person having an estate or interest in premises, or

(d) a person who (but for an interim or final management order under Chapter 1 of Part 4) would fall within paragraph (a) or (b),

may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served in accordance with subsection (6).

(6) A person having such a connection with any premises as is mentioned in subsection (5)(a) to (d) is served in accordance with this subsection if—

(a) the document is addressed to him by describing his connection with the premises (naming them), and

(b) delivering the document to some person on the premises or, if there is no person on the premises to whom it can be delivered, by fixing it, or a copy of it, to some conspicuous part of the premises.

(7) Subsection (1)(c) or (5)(c) applies whether the provision requiring or authorising service of the document refers in terms to a person having an estate or interest in premises or instead refers to a class of person having such an estate or interest (such as owners, lessees or mortgagees).

(8) Where under any provision of Parts 1 to 4 or this Part a document is to be served on—
  (a) the person having control of premises,
  (b) the person managing premises, or
  (c) the owner of premises,
and more than one person comes within the description in the provision, the document may be served on more than one of those persons.

(9) Section 233 of the Local Government Act 1972 (c. 70) (service of notices by local authorities) applies in relation to the service of documents for any purposes of this Act by the authorities mentioned in section 261(2)(d) and (e) of this Act as if they were local authorities within the meaning of section 233.

(10) In this section—
  (a) references to a person managing premises include references to a person authorised to permit persons to occupy premises; and
  (b) references to serving include references to similar expressions (such as giving or sending).

(11) In this section—
  "document" includes anything in writing;
  "premises" means premises however defined.

247 Licences and other documents in electronic form

(1) A local housing authority may, subject to subsection (3), issue a licence to a person under Part 2 or 3 by transmitting the text of the licence to him by electronic means, provided the text—
  (a) is received by him in legible form, and
  (b) is capable of being used for subsequent reference.

(2) A local housing authority may, subject to subsection (3), serve a relevant document on a person by transmitting the text of the document to him in the way mentioned in subsection (1).

(3) The recipient, or the person on whose behalf the recipient receives the document, must have indicated to the local housing authority the recipient's willingness to receive documents transmitted in the form and manner used.

(4) An indication for the purposes of subsection (3)—
  (a) must be given to the local housing authority in such manner as they may require;
  (b) may be a general indication or one that is limited to documents of a particular description;
  (c) must state the address to be used and must be accompanied by such other information as the local housing authority require for the making of the transmission; and
  (d) may be modified or withdrawn at any time by a notice given to the local housing authority in such manner as they may require.

(5) In this section any reference to serving includes a reference to similar expressions (such as giving or sending).

(6) In this section—
  "document" includes anything in writing; and

"relevant document" means any document which a local housing authority are, by virtue of any provision of Parts 1 to 4 or this Part, under a duty to serve on any person.

248 Timing and location of things done electronically

(1) The Secretary of State may by regulations make provision specifying, for the purposes of any of Parts 1 to 4 or this Part, the manner of determining—
   (a) the times at which things done under any of Parts 1 to 4 or this Part by means of electronic communications networks are done;
   (b) the places at which things done under any of Parts 1 to 4 or this Part by means of such networks are done; and
   (c) the places at which things transmitted by means of such networks are received.

(2) The Secretary of State may by regulations make provision about the manner of proving in any legal proceedings—
   (a) that something done by means of an electronic communications network satisfies any requirements of any of Parts 1 to 4 or this Part for the doing of that thing; and
   (b) the matters mentioned in subsection (1)(a) to (c).

(3) Regulations under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.

(4) In this section "electronic communications network" has the meaning given by section 32 of the Communications Act 2003 (c.21).

249 Proof of designations

(1) This subsection applies in respect of a copy of—
   (a) a designation under section 56 (designation of an area as subject to additional licensing), or
   (b) a designation under section 80 (designation of an area as subject to selective licensing),

   which purports to be made by a local housing authority.

(2) A certificate endorsed on such a copy and purporting to be signed by the proper officer of the authority stating the matters set out in subsection (3) is prima facie evidence of the facts so stated without proof of the handwriting or official position of the person by whom it purports to be signed.

(3) Those matters are—
   (a) that the designation was made by the authority,
   (b) that the copy is a true copy of the designation, and
   (c) that the designation did not require confirmation by the confirming authority, or that on a specified date the designation was confirmed by the confirming authority.

Other supplementary provisions

250 Orders and regulations

(1) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act—
   (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas; and
   (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State or (as the case may be) the National Assembly for Wales considers appropriate.

(3) The Secretary of State must consult the National Assembly for Wales before making any regulations under Part 5 which relate to residential properties in Wales.

(4) Subject to subsections (5) and (6), any order or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Subsection (4) does not apply to any order under section 270 or paragraph 3 of Schedule 10.

(6) Subsection (4) also does not apply to—
   (a) any order under section 55(3) which makes the provision authorised by section 55(4),
   (b) any order under section 80(5) or (7),
   (c) any order under section 216 or 229(3),
   (d) any order under section 265(2) which modifies any provision of an Act,
   (e) any regulations under section 254(6),
   (f) any regulations under paragraph 3 of Schedule 4 or orders under paragraph 11 of Schedule 10, or
   (g) any regulations made by virtue of paragraph 11(3)(b) or 12(3)(b) of Schedule 13;

   and no such order or regulations may be made by the Secretary of State (whether alone or with other provisions) unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.

(7) In this Act "modify", in the context of a power to modify an enactment by order or regulations, includes repeal (and "modifications" has a corresponding meaning).

251 Offences by bodies corporate

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
   (a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in such a capacity,

he as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

252 Power to up-rate level of fines for certain offences

(1) Subsection (2) applies if the Secretary of State considers that there has been a change in the value of money since the relevant date.

(2) The Secretary of State may by order substitute for the sum or sums for the time being specified in any provision mentioned in subsection (3) such other sum or sums as he considers to be justified by the change.

(3) The provisions are—
(a) section 32(2)(b);
(b) section 35(6);
(c) section 72(6); and
(d) section 95(5).

(4) In subsection (1) "the relevant date" means—
(a) the date of the passing of this Act; or
(b) where the sums specified in a provision mentioned in subsection (3) have been substituted by an order under subsection (2), the date of that order.

(5) Nothing in an order under subsection (2) affects the punishment for an offence committed before the order comes into force.

253 Local inquiries

The appropriate national authority may, for the purposes of the execution of any of the authority's functions under this Act, cause such local inquiries to be held as the authority considers appropriate.

Meaning of "house in multiple occupation"

254 Meaning of "house in multiple occupation"

(1) For the purposes of this Act a building or a part of a building is a "house in multiple occupation" if—
(a) it meets the conditions in subsection (2) ("the standard test");
(b) it meets the conditions in subsection (3) ("the self-contained flat test");
(c) it meets the conditions in subsection (4) ("the converted building test");
(d) an HMO declaration is in force in respect of it under section 255; or
(e) it is a converted block of flats to which section 257 applies.

(2) A building or a part of a building meets the standard test if—
(a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;

(b) the living accommodation is occupied by persons who do not form a single household (see section 258);

(c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

(d) their occupation of the living accommodation constitutes the only use of that accommodation;

(e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and

(f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

(3) A part of a building meets the self-contained flat test if—

(a) it consists of a self-contained flat; and

(b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).

(4) A building or a part of a building meets the converted building test if—

(a) it is a converted building;

(b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);

(c) the living accommodation is occupied by persons who do not form a single household (see section 258);

(d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

(e) their occupation of the living accommodation constitutes the only use of that accommodation; and

(f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.

(5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.

(6) The appropriate national authority may by regulations—

(a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;

(b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;

(c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.

(7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.

(8) In this section—

"basic amenities" means—

(a) a toilet,
(b) personal washing facilities, or
(c) cooking facilities;

"converted building" means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30);

"self-contained flat" means a separate set of premises (whether or not on the same floor)—
(a) which forms part of a building;
(b) either the whole or a material part of which lies above or below some other part of the building; and
(c) in which all three basic amenities are available for the exclusive use of its occupants.

255 HMO declarations

(1) If a local housing authority are satisfied that subsection (2) applies to a building or part of a building in their area, they may serve a notice under this section (an "HMO declaration") declaring the building or part to be a house in multiple occupation.

(2) This subsection applies to a building or part of a building if the building or part meets any of the following tests (as it applies without the sole use condition)—
(a) the standard test (see section 254(2)),
(b) the self-contained flat test (see section 254(3)), or
(c) the converted building test (see section 254(4)),
and the occupation, by persons who do not form a single household, of the living accommodation or flat referred to in the test in question constitutes a significant use of that accommodation or flat.

(3) In subsection (2) "the sole use condition" means the condition contained in—
(a) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
(b) section 254(4)(e),
as the case may be.

(4) The notice must—
(a) state the date of the authority's decision to serve the notice,
(b) be served on each relevant person within the period of seven days beginning with the date of that decision,
(c) state the day on which it will come into force if no appeal is made under subsection (9) against the authority's decision, and
(d) set out the right to appeal against the decision under subsection (9) and the period within which an appeal may be made.

(5) The day stated in the notice under subsection (4)(c) must be not less than 28 days after the date of the authority's decision to serve the notice.

(6) If no appeal is made under subsection (9) before the end of that period of 28 days, the notice comes into force on the day stated in the notice.

(7) If such an appeal is made before the end of that period of 28 days, the notice does not come into force unless and until a decision is given on the appeal which confirms the notice and either—

(a) the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, or

(b) if an appeal to the Lands Tribunal is brought, a decision is given on the appeal which confirms the notice.

(8) For the purposes of subsection (7), the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against.

(9) Any relevant person may appeal to a residential property tribunal against a decision of the local housing authority to serve an HMO declaration.

The appeal must be made within the period of 28 days beginning with the date of the authority's decision.

(10) Such an appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(11) The tribunal may—

(a) confirm or reverse the decision of the authority, and

(b) if it reverses the decision, revoke the HMO declaration.

(12) In this section and section 256 "relevant person", in relation to an HMO declaration, means any person who, to the knowledge of the local housing authority, is—

(a) a person having an estate or interest in the building or part of the building concerned (but is not a tenant under a lease with an unexpired term of 3 years of less), or

(b) a person managing or having control of that building or part (and not falling within paragraph (a)).

256 Revocation of HMO declarations

(1) A local housing authority may revoke an HMO declaration served under section 255 at any time if they consider that subsection (2) of that section no longer applies to the building or part of the building in respect of which the declaration was served.

(2) The power to revoke an HMO declaration is exercisable by the authority either—

(a) on an application made by a relevant person, or

(b) on the authority's own initiative.

(3) If, on an application by such a person, the authority decide not to revoke the HMO declaration, they must without delay serve on him a notice informing him of—

(a) the decision,

(b) the reasons for it and the date on which it was made,

(c) the right to appeal against it under subsection (4), and

(d) the period within which an appeal may be made under that subsection.

(4) A person who applies to a local housing authority for the revocation of an HMO declaration under subsection (1) may appeal to a residential property tribunal against a decision of the authority to refuse to revoke the notice.

The appeal must be made within the period of 28 days beginning with the date specified under subsection (3) as the date on which the decision was made.

(5) Such an appeal—
  (a) is to be by way of a re-hearing, but
  (b) may be determined having regard to matters of which the authority were unaware.

(6) The tribunal may—
  (a) confirm or reverse the decision of the authority, and
  (b) if it reverses the decision, revoke the HMO declaration.

257 HMOs: certain converted blocks of flats

(1) For the purposes of this section a "converted block of flats" means a building or part of a building which—
  (a) has been converted into, and
  (b) consists of,

self-contained flats.

(2) This section applies to a converted block of flats if—
  (a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and
  (b) less than two-thirds of the self-contained flats are owner-occupied.

(3) In subsection (2) "appropriate building standards" means—
  (a) in the case of a converted block of flats—
    (i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations 1991 (S.I. 1991/2768), and
    (ii) which would not have been exempt under those Regulations,

    building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and
  (b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).

(4) For the purposes of subsection (2) a flat is "owner-occupied" if it is occupied—
  (a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,
  (b) by a person who has the freehold estate in the converted block of flats, or
  (c) by a member of the household of a person within paragraph (a) or (b).

(5) The fact that this section applies to a converted block of flats (with the result that it is a house in multiple occupation under section 254(1)(e)), does not affect the status of any flat in the block as a house in multiple occupation.

(6) In this section "self-contained flat" has the same meaning as in section 254.

258 HMOs: persons not forming a single household

(1) This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.

(2) Persons are to be regarded as not forming a single household unless—
  (a) they are all members of the same family, or
  (b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

(3) For the purposes of subsection (2)(a) a person is a member of the same family as another person if—
  (a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
  (b) one of them is a relative of the other; or
  (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.

(4) For those purposes—
  (a) a "couple" means two persons who are married to each other or otherwise fall within subsection (3)(a);
  (b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
  (c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
  (d) the stepchild of a person shall be treated as his child.

(5) Regulations under subsection (2)(b) may, in particular, secure that a group of persons are to be regarded as forming a single household only where (as the regulations may require) each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.

(6) In subsection (5) "prescribed relationship" means any relationship of a description specified in the regulations.

259 HMOs: persons treated as occupying premises as only or main residence

(1) This section sets out when persons are to be treated for the purposes of section 254 as occupying a building or part of a building as their only or main residence.

(2) A person is to be treated as so occupying a building or part of a building if it is occupied by the person—
  (a) as the person's residence for the purpose of undertaking a full-time course of further or higher education;
  (b) as a refuge, or
  (c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

(3) In subsection (2)(b) "refuge" means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of—

(a) physical violence or mental abuse, or
(b) threats of such violence or abuse,

from persons to whom they are or were married or with whom they are or were co-habiting.

260 HMOs: presumption that sole use condition or significant use condition is met

(1) Where a question arises in any proceedings as to whether either of the following is met in respect of a building or part of a building—
(a) the sole use condition, or
(b) the significant use condition,

it shall be presumed, for the purposes of the proceedings, that the condition is met unless the contrary is shown.

(2) In this section—
(a) "the sole use condition" means the condition contained in—
(i) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
(ii) section 254(4)(e),
as the case may be; and
(b) "the significant use condition" means the condition contained in section 255(2) that the occupation of the living accommodation or flat referred to in that provision by persons who do not form a single household constitutes a significant use of that accommodation or flat.

Other general interpretation provisions

261 Meaning of "appropriate national authority", "local housing authority" etc.

(1) In this Act "the appropriate national authority" means—
(a) in relation to England, the Secretary of State; and
(b) in relation to Wales, the National Assembly for Wales.

(2) In this Act "local housing authority" means, in relation to England—
(a) a unitary authority;
(b) a district council so far as it is not a unitary authority;
(c) a London borough council;
(d) the Common Council of the City of London (in its capacity as a local authority);
(e) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple (in his capacity as a local authority); and
(f) the Council of the Isles of Scilly.

(3) In subsection (2) "unitary authority" means—
(a) the council of a county so far as it is the council for an area for which there are no district councils;
(b) the council of any district comprised in an area for which there is no county council.

(4) In this Act "local housing authority" means, in relation to Wales, a county council or a county borough council.

(5) References in this Act to "the local housing authority", in relation to land, are to the local housing authority in whose district the land is situated.

(6) References in this Act to the district of a local housing authority are to the area of the council concerned, that is to say—
  (a) in the case of a unitary authority, the area or district;
  (b) in the case of a district council so far as it is not a unitary authority, the district;
  (c) in the case of an authority within subsection (2)(c) to (f), the London borough, the City of London, the Inner or Middle Temple or the Isles of Scilly (as the case may be); and
  (d) in the case of a Welsh county council or a county borough council, the Welsh county or county borough.

(7) Section 618 of the Housing Act 1985 (c. 68) (committees and members of Common Council of City of London) applies in relation to this Act as it applies in relation to that Act.

262 Meaning of "lease", "tenancy", "occupier" and "owner" etc.

(1) In this Act "lease" and "tenancy" have the same meaning.

(2) Both expressions include—
  (a) a sub-lease or sub-tenancy; and
  (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).

And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to leases).

(3) The expressions "lessor" and "lessee" and "landlord" and "tenant" and references to letting, to the grant of a lease or to covenants or terms, are to be construed accordingly.

(4) In this Act "lessee" includes a statutory tenant of the premises; and references to a lease or to a person to whom premises are let are to be construed accordingly.

(5) In this Act any reference to a person who is a tenant under a lease with an unexpired term of 3 years or less includes a statutory tenant as well as a tenant under a yearly or other periodic tenancy.

(6) In this Act "occupier", in relation to premises, means a person who—
  (a) occupies the premises as a residence, and
  (b) (subject to the context) so occupies them whether as a tenant or other person having an estate or interest in the premises or as a licensee;

and related expressions are to be construed accordingly.

This subsection does not apply for the purposes of Part 5 and has effect subject to any other provision defining "occupier" for any purposes of this Act.

(7) In this 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 of the premises whether in possession or in 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 3 years.

(8) In this Act "person having an estate or interest", in relation to premises, includes a statutory tenant of the premises.

(9) In this Act "licence", in the context of a licence to occupy premises—
  (a) includes a licence which is not granted for a consideration, but
  (b) excludes a licence granted as a temporary expedient to a person who entered the premises as a trespasser (whether or not, before the grant of the licence, another licence to occupy those or other premises had been granted to him);

and related expressions are to be construed accordingly.

And see sections 108 and 117 and paragraphs 3 and 11 of Schedule 7 (which also extend the meaning of references to licences).

263 Meaning of "person having control" and "person managing" etc.

(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—
  (a) receives (whether directly or through an agent or trustee) rents or other payments from—
    (i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and
    (ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or
  (b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

(4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).

(5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

264 Calculation of numbers of persons

(1) The appropriate national authority may prescribe rules with respect to the calculation of numbers of persons for the purposes of—
  (a) any provision made by or under this Act which is specified in the rules, or

(b) any order or licence made or granted under this Act of any description which is so specified.

(2) The rules may provide—

(a) for persons under a particular age to be disregarded for the purposes of any such calculation;

(b) for persons under a particular age to be treated as constituting a fraction of a person for the purposes of any such calculation.

(3) The rules may be prescribed by order or regulations.

Final provisions

265 Minor and consequential amendments

(1) Schedule 15 (which contains minor and consequential amendments) has effect.

(2) The Secretary of State may by order make such supplementary, incidental or consequential provision as he considers appropriate—

(a) for the general purposes, or any particular purpose, of this Act; or

(b) in consequence of any provision made by or under this Act or for giving full effect to it.

(3) An order under subsection (2) may modify any enactment (including this Act). "Enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

(4) The power conferred by subsection (2) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly.

(5) Nothing in this Act affects the generality of the power conferred by this section.

266 Repeals

Schedule 16 (which contains repeals) has effect.

267 Devolution: Wales

In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) references to the following Acts are to be treated as references to those Acts as amended by virtue of this Act—

(a) the Housing Act 1985 (c. 68);

(b) the Housing Act 1988 (c. 50);

(c) the Housing Act 1996 (c. 52).

268 The Isles of Scilly

(1) This Secretary of State may by order provide that, in its application to the Isles of Scilly, this Act is have effect with such modifications as are specified in the order.

(2) Where a similar power is exercisable under another Act in relation to provisions of that Act which are amended by this Act, the power is exercisable in relation to those provisions as so amended.

269 Expenses

There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State by virtue of this Act;

(b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

270 Short title, commencement and extent

(1) This Act may be cited as the Housing Act 2004.

(2) The following provisions come into force on the day on which this Act is passed—

(a) sections 2, 9, 161 to 164, 176, 190, 208, 216, 233, 234, 244, 248, 250, 252, 264, 265(2) to (5), 267 to 269 and this section, and

(b) any other provision of this Act so far as it confers any power to make an order or regulations which is exercisable by the Secretary of State or the National Assembly for Wales.

Subsections (3) to (7) have effect subject to paragraph (b).

(3) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—

(a) sections 180, 182 to 189, 195 to 207, 209 to 211, 217, 218, 219, 222, 224, 245 to 247, 249, 251 and 253 to 263,

(b) Schedule 9,

(c) Schedule 11, except paragraphs 15 and 16, and

(d) Schedule 14.

(4) The provisions listed in subsection (5) come into force—

(a) where they are to come into force in relation only to Wales, on such day as the National Assembly for Wales may by order appoint, and

(b) otherwise, on such day as the Secretary of State may by order appoint.

(5) The provisions referred to in subsection (4) are—

(a) Part 1 (other than sections 2 and 9),

(b) Parts 2 to 4,

(c) sections 179, 181, 191 to 194, 212 to 215, 220, 221, 223, 225, 226, 227, 229 to 232, 235 to 243, 265(1) and 266,

(d) Schedule 10,

(e) paragraphs 15 and 16 of Schedule 11, and

(f) Schedules 13, 15 and 16.

(6) Part 5 (other than sections 161 to 164 and 176) comes into force on such day as the Secretary of State may by order appoint.

(7) Section 228 and Schedule 12 come into force on such day as the National Assembly for Wales may by order appoint.

(8) Different days may be appointed for different purposes or different areas under subsection (4), (6) or (7).

(9) The Secretary of State may by order make such provision as he considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.

(10) The power conferred by subsection (9) is also exercisable by the National Assembly for Wales in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly

(11) Subject to subsections (12) and (13), this Act extends to England and Wales only.

(12) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates, except that any amendment or repeal in—

the Mobile Homes Act 1983 (c. 34), or

the Crime and Disorder Act 1998 (c. 37),

extends to England and Wales only.

(13) This section extends to the whole of the United Kingdom.

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.

(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
  (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)).

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.

(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).

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.

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.

(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

(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.

(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).

(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.

(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.

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
(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.

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).

(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

(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.

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
(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.

(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.

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
(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 —

(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.

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));

(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).

(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,

  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.

(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 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),

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);

"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 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 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.

(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 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.

(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.

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.

(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.

(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
(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.

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.

(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,

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.

(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,
(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—

(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

(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.

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—

"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"),

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—

(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".

(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.

(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.

(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 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.

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;

(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.

(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.

(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.

(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

(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
  (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—

"(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;"; and

(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 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—

"268 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—

"269A 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.

(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—

(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—

"274A 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—

"275 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—

"300 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.

(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—

"304 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—

"322 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",
"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—

"building containing one or more flats	section 322"

"category 1 hazard	section 322"
"category 2 hazard	section 322"
"common parts	section 322"
"dwelling	section 322"
"hazard	section 322"
"health	section 322"
"residential property tribunal	section 229 of the Housing Act 2004".

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—

"584A 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;

"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—

"584B 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

(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 sub-paragraph (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

(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—

"The Social Housing Ombudsman for Wales	Part 1, Chapter 5 of the Housing Act 1996 (c. 52)."

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

Short title and chapter	*Extent of repeal*
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).

Short title and chapter	*Extent of repeal*
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. 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,".

Short title and chapter	*Extent of repeal*
Housing Act 1988 (c. 50)	In section 50(2), the words from ", acting" onwards. 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.
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,".

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12/2004 992581 19585

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