
WELSH STATUTORY INSTRUMENTS

2006 No. 2822 (W.245)

HOUSING, WALES

Housing (Management Orders and Empty Dwelling Management Orders) (Supplemental Provisions) (Wales) Regulations 2006

Made - - - - 25 October 2006
Coming into force - - 26 October 2006

The National Assembly for Wales, in exercise of the powers conferred on it by section 145 of the Housing Act 2004(1), hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Housing (Management Orders and Empty Dwelling Management Orders) (Supplemental Provisions) (Wales) Regulations 2006 and they come into force on 26 October 2006.

(2) These Regulations apply in Wales.

Interpretation

2. In these regulations —

- (a) “the Act” means the Housing Act 2004;
- (b) “order” means —
 - (i) an interim management order(2);
 - (ii) a final management order(3);
 - (iii) an interim EDMO(4); or
 - (iv) a final EDMO(5);

(1) 2004 c. 34. The power conferred by section 145 is exercisable, as respects Wales, by the National Assembly for Wales. *See* the definition of the “appropriate national authority” in section 261(1) of the Act.
(2) *See* section 101 (3) of the Act.
(3) *See* section 101 (4) of the Act.
(4) *See* section 132 (1)(a) and (2) of the Act.
(5) *See* section 132 (1)(b) and (3) of the Act.

- (c) “premises” means a house(6), to which Chapter 1 of Part 4 of the Act applies or a dwelling(7) to which chapter 2 of Part 4 of the Act applies; and
- (d) “the relevant person”, in relation to a lease of premises (or part of premises), means the person who (apart from, as the case may be, section 107(5) or 116(5) of, or paragraph 2(6) or 10(6) of Schedule 7 to, the Act) is the lessee under the lease.

Supplementary provisions

3.—(1) Where, under —

- (a) section 107(5) or 116(5) of the Act; or
- (b) paragraph 2(6) or 10(6) of Schedule 7 to the Act,

a local housing authority is to be treated as a lessee of premises (or a part of premises) under a lease(8), the following paragraphs apply.

(2) As soon as an order is made the local housing authority making the order must serve on the immediate lessor of the relevant person (“the lessor”) a notice with the following details —

- (a) the type of order by reference to the relevant provision of the Act under which the order has been made;
- (b) the date the order comes into force;
- (c) a summary of the effect the order has on the validity of the lease, by reference to the relevant provision of the Act; and
- (d) the name and address of the local housing authority and any person authorised to receive on their behalf any future demand for ground rent, service charges or other charges due, or any notices or other documents in respect of the premises.

(3) From the date the order comes into force neither the local housing authority nor the relevant person is to be liable for the payment of ground rent, service charges or other charges due under the lease, whether due before or after the date of the order if —

- (a) the notice described in paragraph (2) has been served on the lessor; and
- (b) the lessor fails to send the demand for such payment to the local housing authority and any person authorised in accordance with paragraph 3 (2) (d).

(4) Subject to paragraph 3 (3) from the date the order comes into force the local housing authority —

- (a) are liable to pay any ground rent, service charges or other charges demanded of them that fall due under the lease in respect of a period after such date;
- (b) may pay any outstanding ground rent, service charges or other charges due in respect of a period before such date;
- (c) may challenge the reasonableness of any demands for such payments referred to in subparagraphs (a) or (b), whether on their own behalf or on behalf of the relevant person; and
- (d) must send a copy of any demand for payment of ground rent, service charges or other charges, or any other notice or other document they receive from the lessor, to the relevant person (if the relevant person’s whereabouts are known) within 10 days of receiving it.

(5) Where the relevant person receiving a copy of a demand, notice or other document under paragraph (4)(d) wishes to dispute any matter contained in it the local housing authority must provide such information and assistance as the relevant person may reasonably require.

(6) An interim or final empty dwelling management order may be made in respect of an HMO or a Part 3 house (see section 146 of the Act and sections 79 and 254).

(7) An interim or final empty dwelling management order may be made in respect of a dwelling (see section 132(4)(a) and (b)).

(8) For the meaning of “lease”, “lessee” and “lessor” see section 262 (1) to (5) of the Act.

(6) The relevant person may not require the local housing authority to delay payment of any ground rent, service charge or other charges that the local housing authority reasonably believe are due or outstanding under the lease, whether or not the relevant person disputes a demand for such payment.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁹⁾

25 October 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

⁽⁹⁾ 1998 c. 38.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make supplementary provisions where the local housing authority is to be treated as the lessee under a lease of premises that are subject to an interim or final management order made under Chapter 1 of Part 4 of the Housing Act 2004 (“the Act”) or an interim or final empty dwelling management order (“EDMO”) made under Chapter 2 of Part 4 of the Act.

An interim management order is an order made by a local housing authority in respect of a house in multiple occupation as defined in section 254 of the Act or a house to which Part 3 of the Act applies. It is made to protect the health and safety of occupiers of a house or neighbouring premises and promote the house’s property management. A final management order is an order (expiring not more than five years after it is made) which is made by a local housing authority 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. (Section 101 of the Act).

An interim EDMO is an order made by a local housing authority to enable it to take steps for the purpose of securing that a dwelling becomes and continues to be occupied. A local housing authority must make reasonable efforts to notify the relevant proprietor that they are considering making such an order and to ascertain what steps the relevant proprietor is taking, or is intending to take, to secure that the property is occupied. A final EDMO is made in succession to an interim EDMO for the purpose of securing that a dwelling is occupied (Sections 132 and 133 of the Act).

Once an interim or final management order or EDMO is in force the local housing authority obtain rights in relation to the premises, which are described in Chapters 1 and 2 of Part 4 of the Act. The authority do not, however, acquire any estate or interest in the premises and so have no power of disposition. Where the immediate landlord of the premises (or, except in the case of EDMOs, of part of premises) is lessee under a lease of the premises (or part) the local housing authority is to be treated as if they were the lessee instead (but still without acquiring an estate or interest). (Sections 107 and 116 of, and paragraphs 2 and 10 of Schedule 7 to, the Act).

Regulation 3 applies where a local housing authority are to be treated as lessee of premises instead of another person (“the relevant person”). It requires the local housing authority to give notice to the immediate lessor of that relevant person that a management order or EDMO has been made and explain the consequences of the order. It provides for the local housing authority to be liable for the payment of ground rent, service charges and other charges due as if it were the lessee, from date the order comes into force, but requires the relevant person to be sent copies of any notices served on the local housing authority.

A regulatory appraisal has been carried out in connection with these Regulations and is available from the Private Sector Unit, Department for Social Justice and Regeneration, Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ e-mail: housing@wales.gsi.gov.uk