
STATUTORY INSTRUMENTS

2006 No. 367

HOUSING, ENGLAND

**The Housing (Empty Dwelling Management
Orders) (Prescribed Exceptions and
Requirements) (England) Order 2006**

Made - - - - *15th February 2006*
Laid before Parliament *22nd February 2006*
Coming into force - - *6th April 2006*

The Secretary of State, in exercise of the powers conferred by section 134(5)(a) and (c) and (6) of the Housing Act 2004(1), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as The Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006 and shall come into force on 6th April 2006.

(2) This Order shall apply in England only.

Interpretation

2. In this Order “the Act” means the Housing Act 2004.

Prescribed exceptions

3. For the purposes of section 134(1)(b) of the Act a dwelling falls within a prescribed exception if —

(a) it has been occupied solely or principally by the relevant proprietor(2) and is wholly unoccupied because—

(i) he is temporarily resident elsewhere;

(1) 2004 c.34. The powers conferred by section 234(1) of the Act are exercisable, as respects England, by the Secretary of State and, 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) For the meaning of “relevant proprietor” see section 132(4)(c) of the Act.

- (ii) he is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;
 - (iii) he is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; or
 - (iv) he is a serving member of the armed forces and he is absent from the dwelling as a result of such service;
- (b) it is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
 - (c) it is genuinely on the market for sale or letting;
 - (d) it is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986⁽³⁾ or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995⁽⁴⁾;
 - (e) it is usually occupied by an employee of the relevant proprietor in connection with the performance of his duties under the terms of his contract of employment;
 - (f) it is available for occupation by a minister of religion as a residence from which to perform the duties of his office;
 - (g) it is subject to a court order freezing the property of the relevant proprietor;
 - (h) it is prevented from being occupied as a result of a criminal investigation or criminal proceedings;
 - (i) it is mortgaged, where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or
 - (j) the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.

Prescribed requirements

4.—(1) For the purpose of section 134(2)(e) of the Act the prescribed requirements with which a local housing authority must comply are that—

- (a) it must make reasonable efforts to establish from the relevant proprietor whether he considers that any of the exceptions contained in article 3 apply to the dwelling;
- (b) it must provide to the residential property tribunal—
 - (i) details of the efforts they have made to notify the relevant proprietor that they are considering making an interim empty dwelling management order in respect of his dwelling, as required under section 133(3)(a) of the Act;
 - (ii) details of the enquiries they have made to ascertain what steps (if any) the relevant proprietor is taking, or is intending to take, to secure that the dwelling is occupied, as required under section 133(3)(b) of the Act;
 - (iii) details of any advice and assistance they have provided to the relevant proprietor with a view to the relevant proprietor securing that the dwelling is occupied;

⁽³⁾ 1986 c. 5.

⁽⁴⁾ 1995 c. 8.

- (iv) all information they have that suggests that the dwelling may fall within one of the exceptions described in article 3, whether available from the authority's own enquiries or from representations made to it by the relevant proprietor; and
 - (v) the classification of the dwelling for council tax purposes under the Local Government Finance Act 1992(5); and
- (c) where the relevant proprietor—
- (i) has undertaken or is undertaking repairs, maintenance or improvement works; or
 - (ii) has applied to a local planning authority or other authority for permission to make structural alterations or additions to the dwelling and he awaits the decision of a relevant authority on the application,
- it must give reasons to the tribunal why it considers that an empty dwelling management order is required to secure occupation of the dwelling.
- (2) For the purpose of paragraph (1)(c)(ii) a relevant authority is—
- (a) the authority to whom the relevant proprietor has made the application; or,
 - (b) where that authority has made a decision against which the relevant proprietor or another person has appealed, the person or body that determines the appeal.

Signed by the authority of the First Secretary of State

15th February 2006

Kay Andrews
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

Chapter 2 of Part 4 of the Housing Act 2004 (“the Act”) deals with the making of interim and final empty dwelling management orders (EDMOs) which may be made by a local housing authority in respect of dwellings which are wholly unoccupied.

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 final EDMO is made in succession to an interim EDMO for the purpose of securing that a dwelling is occupied (Section 132 of the Act).

An authority must make reasonable efforts to notify the relevant proprietor that they are considering making an interim EDMO and to ascertain what steps he is taking, or is intending to take, to secure that the property is occupied. The making of such an order requires the authorisation of a residential property tribunal. A tribunal will not authorise the making of an interim EDMO where it is satisfied that the case falls within a prescribed exception.(Section 133 of the Act).

Article 2 of this Order prescribes the exceptions for the purposes of a tribunal’s authorisation.

Article 3 of this Order prescribes the additional requirements that a local housing authority must comply with when making an application to a residential property tribunal for authorisation of an interim EDMO.

A full regulatory impact assessment of the effect that this Order will have on the costs of business is available from the Empty Homes Team, the Office of the Deputy Prime Minister 2/H9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3554, e-mail emptyhomes@odpm.gsi.gov.uk).