
STATUTORY INSTRUMENTS

1996 No. 2885

HOUSING, ENGLAND AND WALES

The Housing (Fitness Enforcement Procedures) Order 1996

Made - - - - *18th November 1996*
Laid before Parliament *26th November 1996*
Coming into force - - *17th December 1996*

The Secretary of State for the Environment as respects England, and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by section 86 of the Housing Grants, Construction and Regeneration Act 1996(1) and all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Housing (Fitness Enforcement Procedures) Order 1996 and shall come into force on 17th December 1996.

Interpretation

2.—(1) In this Order, “enforcement action” means action of any of the kinds specified in paragraph (2).

(2) The kinds of action are —

- (a) serving a deferred action notice under section 81 of the Housing Grants, Construction and Regeneration Act 1996, or renewing such a notice under section 84 of that Act;
- (b) serving a notice under section 189 of the Housing Act 1985(2) (repair notice in respect of a house which is unfit for human habitation);
- (c) serving a notice under section 190 of that Act of 1985(3) (repair notice in respect of house in state of disrepair but not unfit for human habitation);
- (d) making a closing order under section 264 of that Act of 1985;(4) and

(1) 1996 c. 53 .

(2) Section 189 was amended by paragraph 1 of Schedule 15 to the Housing Act 1988 (c. 50) and paragraph 1 of Schedule 9 to the Local Government and Housing Act 1989 (c. 42).

(3) Section 190 was amended by paragraph 2 of Schedule 15 to the Housing Act 1988 and paragraph 2 of Schedule 8 to the Local Government and Housing Act 1989.

(4) Section 264 was substituted by paragraph 14 of Schedule 9 to the Local Government and Housing Act 1989.

- (e) making a demolition order under section 265 of that Act of 1985.(5)

Right to make representations

3. Before a local housing authority takes enforcement action against any person, except in a case where it appears to the authority necessary to take such action immediately, they —

- (1) shall give to that person a written notice stating:
- (a) that they are considering taking the action and the reasons why they are considering it; and
 - (b) that the person may, within a period specified in the notice (not being less than 14 days) make either written representations to the authority or, if the person so requests, make oral representations to the authority in the presence of an officer appointed by the authority (such a request being made not later than the expiry of 7 days beginning with the day on which that notice is given); and
- (2) shall consider any representations which are duly made and not withdrawn.

Sanctions for non-compliance

4. Where any enforcement action is taken and the authority has failed to comply with article 3, that failure shall be a ground for appeal additional to those specified in relation to the relevant type of enforcement action in —

- (1) section 83(2) of the Housing Grants, Construction and Regeneration Act 1996 (deferred action notices and, as applied by section 84(4) of that Act, decisions to renew such a notice);
- (2) section 191(1A) and (1B) of the Housing Act 1985(6) (repair notices); and
- (3) section 269 (2A) of the Housing Act 1985(7) (closing and demolition orders).

Signed by authority of the Secretary of State

15th November 1996

David Curry
Minister of State,

18th November 1996

William Hague
Secretary of State for Wales

(5) Section 265 was also substituted by paragraph 14 of Schedule 9 to the Local Government and Housing Act 1989.
(6) Subsection (1A) of section 191 was inserted by paragraph 3 of Schedule 15 to the Housing Act 1988; and that subsection was amended and subsection (1B) was inserted by paragraph 4 of Schedule 9 to the Local Government and Housing Act 1989.
(7) Subsection (2A) of section 269 was inserted by paragraph 17 of Schedule 9 to the Local Government and Housing Act 1989.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that before taking specified enforcement action in relation to housing which is unfit or in a state of disrepair, that is to say —

- (a) deferred action notices and decisions to renew them,
- (b) repair notices,
- (c) closing orders, and
- (d) demolition orders

a local authority shall serve a notice (a “minded to take action notice”) and give an opportunity for representations to be made unless it appears to the authority necessary to take action immediately. Immediate action means proceeding directly to the service of a notice or the making of an order specified in (a) to (d) above.