

2017 No. 281 (C. 26)

ACQUISITION OF LAND, ENGLAND AND WALES

HOUSING, ENGLAND

TOWN AND COUNTRY PLANNING, ENGLAND

**The Housing and Planning Act 2016 (Commencement No. 5,
Transitional Provisions and Savings) Regulations 2017**

Made - - - -

6th March 2017

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 212 and 216(3) to (5) of the Housing and Planning Act 2016(a).

Citation and interpretation

1. These Regulations may be cited as the Housing and Planning Act 2016 (Commencement No. 5, Transitional Provisions and Savings) Regulations 2017.
2. In these Regulations “the Act” means the Housing and Planning Act 2016.

Provisions coming into force on 10th March 2017

3. The following provisions of the Act come into force on 10th March 2017—
 - (a) section 47(3) (enforcement of rent repayment orders);
 - (b) paragraph 7 of Schedule 9 (financial penalty as alternative to prosecution) and section 126 in so far as it relates to that paragraph for the purpose only of making regulations under section 249A(7) of the Housing Act 2004(b).

Provisions coming into force on 6th April 2017

4. The following provisions of the Act come into force on 6th April 2017—
 - (a) sections 40 to 46 (rent repayment orders) for the purpose only of conferring power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence mentioned in rows 1 to 6 of the table in section 40(3);
 - (b) section 48 (duty to consider applying for rent repayment orders) for the purpose only of requiring a local housing authority to consider applying for a rent repayment order where a landlord has committed an offence mentioned in rows 1 to 6 of the table in section 40(3);

(a) 2016 c. 22.

(b) Section 249A was inserted by paragraph 7 of Schedule 9 of the Housing and Planning Act 2016.

- (c) sections 47(1) and (2) and 49 to 52 (further provisions relating to rent repayment orders);
- (d) section 53 (appeals from the first-tier tribunal);
- (e) sections 54 to 56 (interpretation of Part 2 of the Act);
- (f) section 126 and Schedule 9 (financial penalty as alternative to prosecution under the Housing Act 2004) in so far as not already in force;
- (g) sections 128 and 129 (housing information in England);
- (h) section 131 (limitation of administration charges: costs of proceedings);
- (i) section 160 (development consent for projects that involve housing);
- (j) section 183 and paragraphs 1 to 7 of Schedule 15 (notice of general vesting declaration procedure) in so far as not already in force;
- (k) section 196(3) (interest on advance payments of compensation paid late) for the purpose only of making regulations under section 52B(4) of the Land Compensation Act 1973(a).

Transitional and saving provisions: rent repayment orders

5.—(1) Subject to paragraph (2), sections 40, 41, 43 and 48 of the Act (so far as brought into force by regulation 4(a) and (b)) only apply in relation to an offence which was committed on or after 6th April 2017.

(2) Sections 40, 41, 43 and 48 of the Act (so far as brought into force by regulation 4(a) and (b)) and the amendments made by section 50 of the Act (which are brought into force by regulation 4(c)) do not apply in relation to an offence under section 72(1) or 95(1) of the Housing Act 2004(b) where—

- (a) the offence was wholly committed before 6th April 2017; or
- (b) the commission of the offence started before 6th April 2017 and ended no later than 5th April 2018.

Saving provision: limitation of administration changes (costs of proceedings)

6. The amendment made by section 131 of the Act (which is brought into force by regulation 4(h)) does not apply in relation to litigation costs incurred, or to be incurred, in connection with proceedings begun before 6th April 2017.

Transitional provision: development consent for projects that involve housing

7.—(1) The amendments made by section 160 of the Act (which are brought into force by regulation 4(i)) do not apply to a pre-commencement application.

(2) In this regulation “pre-commencement application” means an application made before 6th April 2017—

- (a) under section 37 of the Planning Act 2008(c) (applications for orders granting development consent), or
- (b) under Schedule 6 to the Planning Act 2008(d) (changes to, and revocation of, orders granting development consent).

Transitional provisions: compulsory purchase

8.—(1) The amendments made by paragraphs 1 to 3 of Schedule 15 to the Act, in so far as they are brought into force by regulation 4(j), do not apply in relation to a compulsory purchase order

(a) 1973 c. 26. Section 52B was inserted by section 196(3) of the Housing and Planning Act 2016.

(b) 2004 c. 34.

(c) 2008 c. 29. Section 37 was amended by the Localism Act 2011.

(d) Schedule 6 was amended by the Marine and Coastal Access Act 2009, the Localism Act 2011, the Infrastructure Act 2015, S.I. 2009/1307 and S.I. 2011/1043.

which is made by the Welsh Ministers, or confirmed by the Welsh Ministers or an authorised authority, before 6th April 2017.

(2) The amendments made by paragraphs 4 to 7 of Schedule 15 to the Act, in so far as they are brought into force by regulation 4(j), do not apply in relation to a compulsory purchase of land which is authorised by—

- (a) a compulsory purchase order which is made by the Welsh Ministers, or confirmed by the Welsh Ministers or an authorised authority, before 6th April 2017;
- (b) an order under section 1 or 3 of the Transport and Works Act 1992^(a) which is, before 6th April 2017, determined to be made by the Welsh Ministers under section 13(1) of that Act; or
- (c) any other relevant order which is made by the Welsh Ministers before 6th April 2017.

(3) In this regulation—

“authorised authority” means an authority who is authorised to confirm the order instead of the Welsh Ministers under section 14A of the Acquisition of Land Act 1981^(b);

“relevant order” means an order which provides that the Compulsory Purchase (Vesting Declarations) Act 1981^(c) is to apply to the compulsory purchase of land which it authorises as if the order were a compulsory purchase order.

Signed by authority of the Secretary of State for Communities and Local Government

Gavin Barwell
Minister of State

6th March 2017

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force various provisions of the Housing and Planning Act 2016 (c.22) (“the Act”).

Regulation 3(a) brings into force section 47(3) of the Act which enables the Secretary of State to make regulations making provision about how local housing authorities are to deal with amounts recovered under rent repayment orders.

Regulation 3(b) brings into force paragraph 7 of Schedule 9 to the Act and section 126 (in so far as it relates to that paragraph) for the purpose of making regulations making provision about how local housing authorities are to deal with financial penalties recovered pursuant to the imposition of a financial penalty as an alternative to prosecution.

Regulation 4(a) brings into force sections 40 to 46 (rent repayment orders) of the Act for the purpose only of conferring power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence under section 6(1) of the Criminal Law Act 1977 (c. 45) (violence for securing entry), section 1 of the Protection from Eviction Act 1977 (c.43) (eviction or harassment of occupier), or any of the following sections of the Housing Act 2004 (c.34): section 30(1) (failure to comply with an improvement notice); section 32(1) (failure to comply with a prohibition notice etc.); section 72(1) (control or management of unlicensed house of multiple occupation (“HMO”)); section 95(1) (control or management of unlicensed house).

(a) 1992 c. 42.

(b) 1981 c. 67. Section 14A was inserted by section 102 of the Planning and Compulsory Purchase Act 2004 (c. 5).

(c) 1981 c. 66.

Regulation 4(b) brings into force section 48 of the Act for the purpose only of requiring a local housing authority to consider applying for a rent repayment order where a landlord has committed one of the offences mentioned above.

Regulation 4(c) brings into force sections 47(1) and (2) and 49 to 52 of the Act. Section 47(1) and (2) makes provision for the enforcement of rent repayment orders. Section 49 gives local housing authorities a power to help tenants apply for rent repayment orders. Section 50 makes consequential amendments to the rent repayment order regimes set out in the Housing Act 2004, which from the commencement of this section will apply only in Wales (unless saved by provision in regulation 5). Sections 51 and 52 are interpretation provisions.

Regulation 4(d) brings into force section 53 of the Act which makes provision for appeals from a decision of the First-tier Tribunal made under Part 2 of the Act (rogue landlords and property agents in England) to the Upper Tribunal.

Regulation 4(e) brings into force sections 54 to 56 of the Act which relate to the interpretation of Part 2.

Regulation 4(f) brings fully into force section 126 of the Act and Schedule 9 which amends the Housing Act 2004 to allow financial penalties to be imposed by a local housing authority as an alternative to prosecution for certain offences.

Regulation 4(g) brings into force sections 128 and 129 of the Act. Section 128 inserts section 212A into the Housing Act 2004. The effect of section 212A is to allow a local housing authority in England to obtain specified information held by tenancy deposit scheme administrators in order to carry out its functions under Parts 1 to 4 of that Act. Section 129 amends section 237 of the Housing Act 2004 to provide that the Secretary of State may make regulations to change the list of purposes for which a local authority may use the data that it has obtained in exercise of its functions under section 134 of the Social Security Administration Act 1992 (c. 5) or Part 1 of the Local Government Finance Act 1992 (c. 14).

Regulation 4(h) brings into force section 131 of the Act which amends Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (c. 15) to give courts and tribunals a discretionary power to restrict the ability of a landlord to recover the costs of taking part in legal proceedings from the leaseholder as an administrative charge on the tenant's application.

Regulation 4(i) brings into force section 160 of the Act which amends section 115 of the Planning Act 2008 (c. 29) to enable the Secretary of State to grant development consent for related housing development alongside a nationally significant infrastructure project in England. The amendments made by section 160 also require the Secretary of State to take into account any matters set out in guidance when determining whether to grant development consent for development that includes related housing development.

Regulation 4(j) brings into force section 183 of the Act and paragraphs 1 to 7 of Schedule 15 in so far as they are not already in force, i.e. in relation to orders authorising compulsory acquisition which are made by, or for which the confirming authority is, the Welsh Ministers. The effect of these provisions is to change the notice requirements for general vesting declarations.

Regulation 4(k) brings into force section 196(3) of the Act, which inserts section 52B into the Land Compensation Act 1973 (c. 26), for the purpose only of making regulations to specify the rate of interest which an acquiring authority must pay in respect of an advance payment of compensation which is paid late.

The effect of regulation 5 is that a rent repayment order under the Act may only be made in relation to an offence which was committed on or after 6th April 2017. The provisions of the Housing Act 2004 relating to rent repayment orders for the offences of control or management of an unlicensed HMO or house will continue to apply to those offences if they were committed before 6th April 2017 or over a period falling in part before that date and ending before 6th April 2018.

The effect of regulation 6 is that applications may only be made by a tenant under new paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 (c.15) (inserted by section 131) to restrict recovery by the landlord of litigation costs connected with legal proceedings brought after the commencement of section 131.

The effect of regulation 7 is that the amendments to the Planning Act 2008 made by section 160 of the Act do not apply in relation to applications in relation to development consent made prior to 6th April 2017.

Regulation 8 makes transitional provision in relation to the coming into force of paragraphs 1 to 7 of Schedule 15 to the Act. The amendments made by paragraphs 1 to 3, in so far as they are brought into force by regulation 4(j), do not apply in relation to a compulsory purchase order which is made by the Welsh Ministers, or confirmed by the Welsh Ministers (or an acquiring authority instead of the Welsh Ministers), before 6th April 2017. The amendments made by paragraphs 4 to 7, in so far as they are brought into force by regulation 4(j), also do not apply in relation to a compulsory purchase of land which is authorised by such a compulsory purchase order (or an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) which is, before 6th April 2017, determined to be made by the Welsh Ministers, or any other relevant order which is made by the Welsh Ministers before that date).

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|----------------------------|-----------------------------|-----------------|
| Sections 9 to 11 | 31st October 2016 | 2016/733 |
| Section 12 | 13th July 2016 | 2016/733 |
| Sections 64 and 65 | 26th May 2016 | 2016/609 |
| Section 66 | 13th July 2016 | 2016/733 |
| Sections 67 and 68 | 26th May 2016 | 2016/609 |
| Sections 80 to 91 | 1st October 2016 | 2016/956 |
| Section 92 | 6th April 2016 | 2017/75 |
| Sections 93 and 94 | 3rd February 2017 | 2017/75 |
| Section 102(2) to (6) | 3rd February 2017 | 2017/75 |
| Section 132 | 1st October 2016 | 2016/733 |
| Sections 141 and 142 | 1st October 2016 | 2016/733 |
| Sections 143 and 144 | 13th July 2016 | 2016/733 |
| Sections 145(1) to 145(4) | 1st October 2016 | 2016/733 |
| Section 145(5) | 26th May 2016 | 2016/609 |
| Sections 146 to 148 | 1st October 2016 | 2016/733 |
| Sections 150(4) and 150(5) | 13th July 2016 | 2016/733 |
| Sections 152(2) to 152(4) | 13th July 2016 | 2016/733 |
| Section 154 | 13th July 2016 | 2016/733 |
| Section 156 | 1st October 2016 | 2016/733 |
| Sections 169 and 170 | 13th July 2016 | 2016/733 |
| Section 171 | 1st October 2016 | 2016/733 |
| Sections 172 to 179 | 13th July 2016 | 2016/733 |
| Section 182 | 13th July 2016 | 2016/733 |
| Section 183 (partially) | 1st October 2016 | 2016/956 |
| Section 183 (partially) | 3rd February 2017 | 2017/75 |
| Sections 184 to 189 | 3rd February 2017 | 2017/75 |
| Section 190 | 13th July 2016 | 2016/733 |
| Section 191 | 3rd February 2017 | 2017/75 |
| Section 199(1) | 3rd February 2017 | 2017/75 |
| Section 199(2) (partially) | 3rd February 2017 | 2017/75 |

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| Section 200 | 3rd February 2017 | 2017/75 |
| Sections 201 to 206 | 13th July 2016 | 2016/733 |
| Schedule 4 | 6th April 2016 | 2017/75 |
| Schedule 11 | 1st October 2016 | 2016/733 |
| Schedule 12 (excluding paragraph 27) | 13th July 2016 | 2016/733 |
| Schedule 14 | 13th July 2016 | 2016/733 |
| Schedule 15 – paragraphs 1, 2(1), 2(2), 3(1), 3(2) (partially) | 1st October 2016 | 2016/956 |
| Schedule 15 – paragraphs 1 to 7 (partially) | 3rd February 2017 | 2017/75 |
| Schedule 15 – paragraph 8 | 1st October 2016 | 2016/956 |
| Schedule 16 | 13th July 2016 | 2016/733 |
| Schedule 17 | 3rd February 2017 | 2017/75 |
| Schedule 18– paragraphs 1 to 9 | 3rd February 2017 | 2017/75 |
| Schedule 19 | 13th July 2016 | 2016/733 |

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