
STATUTORY INSTRUMENTS

2018 No. 209

HOUSING, ENGLAND

**The Housing (Management Orders and Financial Penalties)
(Amounts Recovered) (England) Regulations 2018**

<i>Made</i>	- - - -	<i>20th February 2018</i>
<i>Laid before Parliament</i>		<i>22nd February 2018</i>
<i>Coming into force</i>	- -	<i>6th April 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 110(5A) and 119(4B) of the Housing Act 2004⁽¹⁾ and section 23(8) of the Housing and Planning Act 2016⁽²⁾.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Housing (Management Orders and Financial Penalties) (Amounts Recovered) (England) Regulations 2018.

(2) These Regulations come into force on 6th April 2018.

(3) These Regulations apply in relation to local housing authorities in England only.

Interpretation

2. In these Regulations—

“the 2004 Act” means the Housing Act 2004;

“the 2016 Act” means the Housing and Planning Act 2016;

“enforcement function” means, in relation to a local housing authority⁽³⁾—

(a) any of its functions—

(i) under Parts 1 to 4 of the 2004 Act; or

(ii) under Part 2 of the 2016 Act; or

(b) where paragraph (a) does not apply, any of its functions—

(1) 2004 c. 34. Section 110 was amended by paragraph 4 of Schedule 3 to the Housing and Planning Act 2016 (c. 22) and S.I. 2013/1036. Section 119 was amended by paragraph 9 of Schedule 3 to the Housing and Planning Act 2016.

(2) 2016 c. 22.

(3) See section 261 of the Housing Act 2004 and section 56 of the Housing and Planning Act 2016 for the definition of “local housing authority”.

- (i) connected with an investigation of, or proceedings relating to, a contravention of the law relating to housing or landlord and tenant; or
- (ii) connected with the promotion of compliance with the law relating to housing or landlord and tenant; and

“private rented sector” means—

- (a) residential premises in England that are let, or intended to be let, under a tenancy;
- (b) common parts of such premises;
- (c) the activities of a landlord under a tenancy of residential premises in England;
- (d) the activities of a person carrying on English letting agency work within the meaning of section 54 of the 2016 Act in relation to such premises; or
- (e) the activities of a person carrying on English property management work within the meaning of section 55 of the 2016 Act in relation to such premises;

and for the purpose of this definition “residential premises” has the meaning given by section 1 of the 2004 Act except that it does not include social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008(4).

Application of surplus from relevant management orders

3.—(1) A local housing authority may apply any surplus(5) in relation to any relevant management order to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any part of any surplus which is not to be applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

(3) In paragraph (1) “relevant management order” means—

- (a) an interim management order made under section 102(7A) of the 2004 Act(6); or
- (b) a final management order made under section 113(3A) or (6A) of the 2004 Act(7).

Application of financial penalties recovered under section 23 of the 2016 Act

4.—(1) A local housing authority may apply any financial penalty recovered under section 23 of the 2016 Act to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any part of any financial penalty recovered which is not to be applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

(4) 2008 c. 17.

(5) Surplus is defined in sections 110(5B) and 119(4C) of the Housing Act 2004.

(6) Section 102 was amended by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016.

(7) Section 113 was amended by paragraph 7 of Schedule 3 to the Housing and Planning Act 2016.

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

Heather Wheeler
Parliamentary Under Secretary of State
Ministry of Housing, Communities and Local
Government

20th February 2018

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 provision for how a local housing authority in England must deal with—

- (a) any surplus collected or recovered under an interim or final management order in respect of property let in breach of a banning order made under section 16 of the Housing and Planning Act 2016 (c.22) (see regulation 3); and
- (b) any financial penalty recovered for breach of a banning order (see regulation 4).

Any such amount may be used to meet an authority's costs and expenses incurred in carrying out its enforcement functions in relation to the private rented sector. If it is not used for that purpose the local housing authority must pay it into the Consolidated Fund.

A full regulatory impact assessment has not been prepared for this instrument as no impact on business or the private or voluntary sector is foreseen.