
STATUTORY INSTRUMENTS

2006 No. 368

HOUSING, ENGLAND

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

<i>Made</i>	- - - -	<i>15th February 2006</i>
<i>Laid before Parliament</i>		<i>22nd February 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Secretary of State, in exercise of the powers conferred by section 145 of the Housing Act 2004⁽¹⁾, makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as The Housing (Management Orders and Empty Dwelling Management Orders) (Supplemental Provisions) (England) Regulations 2006 and shall come into force on 6th April 2006.

(2) These Regulations apply in England only.

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 powers conferred by section 145(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) 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 are 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 it 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 or 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 shall 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.

(4) 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 sub-paragraphs (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 his 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 he may reasonably require.

⁽⁶⁾ An interim or final 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 to 259)

⁽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 he disputes a demand for such payment.

Signed by authority of the First Secretary of State

15th February 2006

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make supplementary provisions where the local housing authority are 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 sections 254 to 259 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. An authority must make reasonable efforts to notify the relevant proprietor that they are considering making such an order and to ascertain what steps he 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 a lessee under a lease of the premises (or part) the 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 authority to give notice to the immediate lessor of that person that a management order or EDMO has been made and explain the consequences of the order. It provides for the authority to be liable for the payment of ground rent, service charges and other charges due as the lessee, from date the order comes into force, but requires the lessee to be sent copies of any notices served on the authority.

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/G9 Eland House, Bressenden Place, London, SW1E 5DU (telephone 0207 944 3554, e-mail emptyhomes@odpm.gsi.gov.uk).