WELSH STATUTORY INSTRUMENTS

2008 No. 254 (W.30)

HOUSING, WALES

The Rent Repayment Orders (Supplementary Provisions) (Wales) Regulations 2008

Made - - - -	*6 February 2008*
Laid before the National Assembly for Wales - -	*7 February 2008*
Coming into force - -	*4 March 2008*

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 74(15) and 97(15) of the Housing Act 2004(**1**) and now vested(**2**) in the Welsh Ministers, make the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is The Rent Repayment Orders (Supplementary Provisions) (Wales) Regulations 2008 and they come into force on 4 March 2008.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations, "the Act" ("*y Ddeddf*") means the Housing Act 2004.

Amendment of a rent repayment order application to remove Housing benefit not properly payable

2.—(1) Paragraph (2) applies if, in the course of proceedings on an application under subsection (5) of section 73 of the Act (other consequences of operating unlicensed HMOs(**3**): rent repayment orders) or subsection (5) of section 96 of the Act (other consequences of operating unlicensed houses(**4**): rent repayment orders), it comes to the notice of the local housing authority that in respect of periodical payments payable in connection with occupation of the part or parts of the HMO or of the whole or part of the house to which the application applies there may have been a payment of housing benefit(**5**) that was not properly payable.

(**1**) 2004 c. 34. The powers conferred by sections 74(15) and 97(15) of the Act are exercisable, as respects Wales by the National Assembly for Wales and, as respects England, by the Secretary of State. *See* the definition of the "*appropriate national authority*" in section 261(1).
(**2**) The powers of the National Assembly for Wales under sections 74(15) and 97(15) were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
(**3**) As to the meaning of "HMO", *see* sections 55(2) and 77 of the Act.
(**4**) As to the meaning of "*house*", *see* section 99 of the Act
(**5**) As to "*housing benefit*", and "*periodical payments*", *see* section 96(10) of the Act.

(2) A local housing authority may apply to the residential property tribunal for leave to amend the authority's application by substituting for the total amount of housing benefit paid, such part of that amount as the authority believes is properly payable.

(3) For the purposes of paragraphs (1) and (2) an amount of housing benefit is properly payable if the person to whom, or in respect of whom, it is paid is entitled to it under the Housing Benefit Regulations 2006(**6**) or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**7**) (whether on the initial decision or as subsequently revised or superseded, or further revised or superseded).

Application of amounts recovered under a rent repayment order

3.—(1) Subject to paragraph (3), a local housing authority may apply an amount recovered under a rent repayment order for any of the purposes mentioned in paragraph (2).

(2) The purposes are the reimbursement of the authority's costs and expenses (whether administrative or legal) incurred in, or associated with—

(a) the making of the application under section 73(5) of the Act or, as the case may be, section 96(5) of the Act;

(b) the registration and enforcement of any legal charge under section 74(9)(b) or 97(9)(b) of the Act on the relevant property;

(c) dealing with any application for the grant of a licence in respect of the relevant property under Part 2 of the Act (licensing of HMOs) or, as the case may be, Part 3 of the Act (selective licensing of other residential accommodation);

(d) the prosecution of the appropriate person for an offence under section 72(1) of the Act or, as the case may be, section 95(1) of the Act, in relation to the relevant property (whether proceedings are instituted before or after the making of the order);

(e) the making of an interim or final management order under Chapter 1 of Part 4 of the Act (interim and final management orders) in respect of the relevant property (whether the management order is made before or after the making of the rent repayment order);

(f) the management of the relevant property while an interim or final management order is in force;

(g) the execution of works undertaken in relation to the relevant property while an interim management order is in force; and

(h) the preparation of, or execution of works under, a management scheme under section 119 of the Act (management schemes and accounts) while a final management order is in force.

(3) Nothing in paragraph (1) authorises the application of an amount by way of reimbursement of an authority's costs or expenses where those costs or expenses have already been paid by or on behalf of the appropriate person.

(4) In paragraph (2), "the relevant property" means the HMO or house to which the rent repayment order relates.

Treatment of surpluses

4. An amount recovered under a rent repayment order which is not applied for a purpose mentioned in regulation 3(2), must be paid into the Welsh Consolidated Fund.

(**6**) S.I.2006/213.
(**7**) S.I. 2006/214.