WELSH STATUTORY INSTRUMENTS

2006 No. 2823 (W.246)

HOUSING, WALES

The Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (Wales) Order 2006

Made - - - -	*25 October 2006*
Coming into force - -	*26 October 2006*

The National Assembly for Wales, in exercise of the powers conferred on it by section 134(5)(a) and (c) and (6) of the Housing Act 2004(**1**), hereby makes the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (Wales) Order 2006 and it comes into force on 26 October 2006.

(2) This Order applies in Wales.

Interpretation

2. In this Order "the Act" ("*y Ddeddf*") means the Housing Act 2004.

Prescribed exceptions

3. For the purposes of section 134(1)(b) of the Act a dwelling falls within a prescribed exception if —

(a) it has been occupied solely or principally by the relevant proprietor and is wholly unoccupied because the relevant proprietor(**2**) —

(i) is temporarily resident elsewhere;

(ii) is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;

(iii) is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; or

(**1**) 2004 c. 34. The power conferred by section 134(5)(a) and (c) and (6) is exercisable, 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**) For the meaning of "*relevant proprietor*" see section 132 (4)(c) of the Act.

(iv) is a serving member of the armed forces and is absent from the dwelling as a result of such service.

(b) it is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the relevant proprietor or the relevant proprietor's guests on a temporary basis from time to time;

(c) it is genuinely on the market for sale or letting;

(d) it is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986(**3**) or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995(**4**);

(e) it is usually occupied by an employee of the relevant proprietor in connection with the performance of the employee's duties under the terms of the employee's contract of employment;

(f) it is available for occupation by a minister of religion as a residence from which to perform the duties of the minister of religion's office;

(g) it is subject to a court order freezing the property of the relevant proprietor;

(h) it is prevented from being occupied as a result of a criminal investigation or criminal proceedings;

(i) it is mortgaged, where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or

(j) the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.

Prescribed requirements

4.—(1) For the purpose of section 134(2)(e) of the Act the prescribed requirements with which a local housing authority must comply are that —

(a) it must make reasonable efforts to establish from the relevant proprietor whether the relevant proprietor considers that any of the exceptions contained in article 3 apply to the dwelling;

(b) it must provide to the residential property tribunal —

(i) details of the efforts they have made to notify the relevant proprietor that they are considering making an interim empty dwelling management order in respect of the relevant proprietor's dwelling, as required under section 133(3)(a) of the Act;

(ii) details of the enquiries they have made to ascertain what steps (if any) the relevant proprietor is taking, or is intending to take, to secure that the dwelling is occupied, as required under section 133(3)(b) of the Act;

(iii) details of any advice and assistance they have provided to the relevant proprietor with a view to the relevant proprietor securing that the dwelling is occupied;

(iv) all information they have that suggests that the dwelling may fall within one of the exceptions described in article 3, whether available from the authority's own enquiries or from representations made to it by the relevant proprietor; and

(v) the classification of the dwelling for council tax purposes under the Local Government Finance Act 1992(**5**); and

(c) where the relevant proprietor —

(**3**) 1986 c. 5
(**4**) 1995 c. 8
(**5**) 1992 c. 14