WELSH STATUTORY INSTRUMENTS

2006 No. 1535 (W.152)(C.54)

HOUSING, WALES

The Housing Act 2004 (Commencement No. 3 and Transitional Provisions and Savings) (Wales) Order 2006

Made - - - - 13 June 2006

The National Assembly for Wales, in exercise of the powers conferred on it by sections 76(6), 250(2) and 270(4), (5) and (10) of the Housing Act 2004(**1**), makes the following Order:

Title, interpretation and application

1.—(1) The title of this Order is the Housing Act 2004 (Commencement No. 3 and Transitional Provisions and Savings) (Wales) Order 2006.

(2) In this Order—

(a) "the 1985 Act" ("*Deddf 1985*") means the Housing Act 1985(**2**);

(b) "the 2004 Act" ("*Deddf 2004*") means the Housing Act 2004;

(c) "the commencement date" ("*y dyddiad cychwyn*") means 16 June 2006; and

(d) any reference to a repeal is to a repeal contained in Schedule 16 to the 2004 Act.

(3) This Order applies in relation to Wales.

Provisions coming into force on the commencement date

2. The following provisions of the 2004 Act come into force on the commencement date—

(a) in so far as they are not already in force(**3**), sections 1, 3, 5 to 8, 10 to 52, 54, 55, 58 to 78, 82 to 147, 229 to 232, 235, 236, 238 to 243, Schedules 1 to 7 and Schedule 13;

(b) section 265(1) in so far as it relates to paragraphs 2 to 6, 9 to 36 and 38 to 44 of Schedule 15 (minor and consequential amendments);

(c) section 266 in so far as it relates to the repeals in—

(**1**) 2004 c. 34. The powers conferred by section 270(4), (5) and (10) are exercisable, as respects Wales, by the National Assembly for Wales. *See* the definition of the "appropriate national authority" in section 261(1) of the 2004 Act.

(**2**) 1985 c. 68.

(**3**) So far as a provision of the 2004 Act confers power to make an order or regulations exercisable by the National Assembly for Wales it came into force on the passing of that Act by virtue of section 270(2)(b) of the Act. Some provisions brought into force by this Order have already been brought into force partially by earlier commencement orders.

(i) the Friendly and Industrial and Provident Societies Act 1968(**4**);

(ii) the Land Compensation Act 1973(**5**);

(iii) the Civil Aviation Act 1982(**6**);

(iv) the Mobile Homes Act 1983(**7**);

(v) the 1985 Act;

(vi) the Housing Associations Act 1985(**8**);

(vii) the Housing (Consequential Provisions) Act 1985(**9**);

(viii) the Airports Act 1986(**10**);

(ix) the Housing Act 1988(**11**);

(x) the Electricity Act 1989(**12**));

(xi) the Local Government and Housing Act 1989(**13**));

(xii) the Housing Act 1996(**14**));

(xiii) the Housing Grants, Construction and Regeneration Act 1996(**15**)); and

(xiv) the Transport Act 2000(**16**)).

Transitional provisions and savings

3. The Schedule has effect for the purpose of making transitional provisions and savings in connection with the coming into force of provisions mentioned in article 2.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**17**).

D. Elis-Thomas
13 June 2006 The Presiding Officer of the National Assembly

(**4**) 1968 c. 55.
(**5**) 1973 c. 26.
(**6**) 1982 c. 16.
(**7**) 1983 c. 34.
(**8**) 1985 c. 69.
(**9**) 1985 c. 71.
(**10**) 1986 c. 31.
(**11**) 1988 c. 50.
(**12**) 1989 c. 29.
(**13**) 1989 c. 42.
(**14**) 1996 c. 52.
(**15**) 1996 c. 53.
(**16**) 2000 c. 38.
(**17**) 1998 c. 38.

SCHEDULE Article 3

PART 1

ACTION UNDER THE 1985 ACT RELATING TO UNFITNESS

Repair notices

1.—(1) A repair notice served under section 189 or 190 of the 1985 Act before the commencement date ceases to have effect on that date unless it is a notice to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a repair notice—

(a) which has become operative as mentioned in section 189(4) or 190(4) of the 1985 Act before the commencement date; or

(b) in respect of which an appeal has been brought under section 191 of that Act before that date.

(3) During the period beginning on the commencement date and ending on 15 June 2007, the repeal of sections 189 to 208, 345, 398, 604 and 604A of, and Schedule 10 to, the 1985 Act do not have effect in relation to a repair notice to which sub-paragraph (2) applies.

(4) Where—

(a) an appeal in respect of a repair notice to which sub-paragraph (2) applies is allowed; and

(b) the judge includes in the judgment a finding such as is mentioned in section 191(3) of the 1985 Act,

the local housing authority must take the finding into account if they subsequently consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises concerned.

(5) A repair notice to which sub-paragraph (2) applies ceases to have effect on 16 June 2007 except in relation to anything done in connection with the notice before that date.

(6) The repeal of section 191(3A)(b) of the 1985 Act does not have effect in relation to an order made by a court under that paragraph before that date.

(7) The amendment made by paragraph 4(2) of Schedule 15 to the 2004 Act (which amends the Land Compensation Act 1973) does not have effect in relation to a repair notice to which sub-paragraph (2) applies.

Closing orders

2.—(1) A closing order made under section 264 or 368(4) of the 1985 Act before the commencement date ceases to have effect on that date unless it is an order to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a closing order—

(a) which has become operative as mentioned in section 268(2) of the 1985 Act before the commencement date; or

(b) in respect of which an appeal has been brought under section 269 of that Act before that date.

(3) During the period beginning on the commencement date and ending on 15 June 2008, the following does not have effect in relation to a closing order to which sub-paragraph (2) applies—

(a) the repeal of sections 264, 267(2) and (3), 269(2A) and (3A), 276 to 278, 368, 395, 396, 397, 604 and 604A of the 1985 Act;

(b) the repeals in sections 317, 319(1)(b) and 323 of that Act; and

(c) the amendments made by section 48(2) and (4) of, and paragraphs 13, 14, 22, 26, 27 and 33 of Schedule 15 to the 2004 Act.

(4) Where—

(a) an appeal in respect of a closing order to which sub-paragraph (2) applies is allowed; and

(b) the judge includes in the judgment a finding such as is mentioned in section 269(3A) of the 1985 Act,

the local housing authority must take the finding into account if they subsequently consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises concerned.

(5) A closing order to which sub-paragraph (2) applies ceases to have effect on 16 June 2008 except in relation to anything done in connection with the order before that date.

(6) The amendments made by—

(a) paragraphs 3, 4(3), 5 and 6 of Schedule 15 to the 2004 Act (which amend the Land Compensation Act 1973); and

(b) paragraphs 30 and 31 of that Schedule (which substitute compensation provisions of the Housing Act 1985),

do not have effect in relation to a closing order to which sub-paragraph (2) applies.

Demolition orders

3.—(1) A demolition order made under section 265 or 279 of the 1985 Act before the commencement date ceases to have effect on that date unless it is an order to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a demolition order—

(a) which has become operative as mentioned in section 268(2) of the 1985 Act before the commencement date; or

(b) in respect of which an appeal has been brought under section 269 of that Act before that date.

(3) During the period beginning on the commencement date and ending on 15 June 2008, the following do not have effect in relation to a demolition order to which sub-paragraph (2) applies—

(a) the repeal of sections 269(2A) and (3A), 604 and 604A of the 1985 Act;

(b) the repeals in section 323 of that Act; and

(c) the amendments made by sections 46 and 48(2) to (4) of, and paragraphs 13 to 18, 21, 22, 26, 27, and 33 of Schedule 15 to the 2004 Act.

(4) Where—

(a) an appeal in respect of a demolition order to which sub-paragraph (2) applies is allowed; and

(b) the judge includes in the judgment a finding such as is mentioned in section 269(3A) of the 1985 Act,

the local housing authority must take the finding into account if they subsequently consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises concerned.

(5) During the period mentioned in sub-paragraph (3)—

(a) section 275 of the 1985 Act (demolition orders: substitution of closing orders) has effect in relation to a demolition order to which sub-paragraph (2) applies as if—

(i) in subsection (1) the words "and make a closing order as respects the premises" were omitted; and

(ii) for subsection (2) there were substituted—

"(2) The authority must serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a demolition order as respects the premises."; and

(b) subsection (2) of section 304 of the 1985 Act (closing order to be made in respect of listed building subject to section 265) has effect in relation to such an order as if for the words after "operative" there were substituted the words "and they must serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a demolition order as respects the premises".

(6) A demolition order to which sub-paragraph (2) applies cease to have effect on 16 June 2008 except in relation to anything done in connection with the order before that date.

(7) The amendments made by—

(a) paragraphs 3, 4(3), 5 and 6 of Schedule 15 to the 2004 Act; and

(b) paragraphs 30 and 31 of that Schedule,

do not have effect in relation to a demolition order to which sub-paragraph (2) applies.

Obstructive building orders

4. An obstructive building order served under section 284 of the 1985 Act before the commencement date ceases to have effect on that date except in relation to anything done in connection with the order before that date.

Clearance areas

5.—(1) The amendments made by section 47 of, and paragraphs 19, 22, 26 and 27 of Schedule 15 to, the 2004 Act do not have effect in relation to an area declared to be a clearance area under section 289(3)(b) of the 1985 Act before the commencement date.

(2) This sub-paragraph applies where, before the commencement date, a local housing authority —

(a) have served notice under section 289(2B)(a) of the 1985 Act of intention to include a building in an area which is to be a clearance area; but

(b) have not passed a resolution under section 289(3)(b) of that Act declaring the area to be a clearance area.

(3) Where sub-paragraph (2) applies—

(a) the notice mentioned in paragraph (a) of that sub-paragraph ceases to have effect; and

(b) the requirements of section 289(2B)(b) and (c) and (2F) cease to apply to the local housing authority.

Purchase of houses liable to be demolished or closed

6.—(1) A notice of determination to purchase premises served under section 300(2)(a) of the 1985 Act before the commencement date ceases to have effect on that date unless it is a notice to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a notice of determination—