

## **REGULATORY APPRAISAL**

### **HOUSING, WALES**

#### **THE HOUSING (EMPTY DWELLING MANAGEMENT ORDERS) (PRESCRIBED EXCEPTIONS AND REQUIREMENTS) (WALES) ORDER 2006**

##### **Purpose and intended effect of the measure.**

1. The purpose of this Order is to describe the nature of an Empty Dwelling Management Order (EDMO) and to set out the circumstances when a local housing authority will be prevented from making an interim empty dwelling management order (interim EDMO) in relation to a dwelling that has been left unoccupied by its owner as described in Part 4 of the Housing Act 2004 (the Act). It also sets out the information that the local housing authority must provide to the tribunal that is considering the application.
2. The Order specifies that under Section 134 of the Housing Act 2004 a residential property tribunal may authorise a local housing authority to make an interim EDMO in respect of a dwelling that:
  - is wholly unoccupied (except where the relevant proprietor is a public body, such as a local authority, health trust or police force) if it is satisfied that the dwelling has been wholly unoccupied for at least 6 months or such longer period as may be prescribed;
  - there is no reasonable prospect of it becoming occupied in the near future;
  - if an interim EDMO is made, there is a reasonable prospect that it will become occupied;
  - the authority have complied with section 133(3) of the Act;
  - any prescribed requirements have been complied with, for example, the local authority would have to prove that it has made every possible effort to contact the owner of the property before applying for the EDMO; and
  - it is not satisfied that the case falls within a prescribed exception, for example, the property is unoccupied because the relevant proprietor is a serving member of the armed forces and is absent from the dwelling as a result of such service or, the property is genuinely on the market for sale or letting.
3. Under section 134(5) of the Act the appropriate national authority (i.e. the National Assembly for Wales) may, by order, prescribe the exceptions that the case may fall into, prescribe the period of time longer than six months for which a dwelling must be unoccupied before an order may be made

and prescribe any other requirements that need to be complied with before an order may be authorised. For example, a local authority will have to satisfy the Residential Property Tribunal that it has made every possible effort to contact the owner before applying for the Order to be made.

4. The Order provides that once an interim empty dwelling management order (EDMO) is approved by a Residential Property Tribunal (RPT), it will usually last for a maximum period of 12 months. A local housing authority cannot arrange occupation of the dwelling without obtaining written consent from the owner. Where such consent cannot be obtained, the interim EDMO may be revoked and replaced with a final empty dwelling management order (final EDMO) made by the local housing authority. The making of a final EDMO does not require the approval of a Residential Property Tribunal. Once in force, it lasts for a fixed period of no more than seven years. The LHA does not require consent of the owner to grant occupation rights to the dwelling during a final EDMO.
5. This Order is an essential element of the powers contained in the Housing Act 2004 that enable local authorities to introduce EDMOs to deal with problem empty properties in the private sector. The Order puts in place the final detailed arrangements that local authorities will need to be able to introduce EDMOs.
6. The Order is part of a package of four Statutory Instruments, which are proposed to come into force 26 October 2006.

### **Risk Assessment**

7. This Order is an integral part of the Act and is inexorably linked to other Regulations covering the introduction of EDMOs. If this Order is not brought into force then the full set of measures for local authorities to deal with empty properties in the private sector that have been vacant for more than six months will not be available. This will prevent local authorities from being able to add to powers they currently have and will not allow properties to be brought back into use for rent to people that are in housing need.

### **Options**

#### Option 1: Do Nothing

8. If this Order is not made there will be direct implications for local authorities as they will be unable to use EDMOs to deal with problem empty properties in the private sector. Implications such as unpaid council tax, health hazards from dangerous buildings, derelict buildings used for drug abuse and bringing down the tone of neighbourhoods. It could also result in wasted resources when there are people in the area in housing need. The introduction of EDMOs will enable local authorities to bring properties that have been empty for more than 6 months back into use.

## Option 2: Make the Legislation

9. The introduction of empty dwelling management orders EDMOs will add to the current powers (Housing Act 1985) that local authorities have for dealing with problem empty properties in the private sector. Authorities will be able to apply for EDMOs to the Residential Property Tribunal once they have made every possible effort to contact the owner of the property. As such EDMOs are a last resort measure but their availability could have the effect of increasing the availability of housing for rent once they are introduced.

### **Benefits**

10. Empty dwelling management orders (EDMOs) provide a new mechanism to secure the reuse of empty homes that avoid the adversarial approach taken under a number of existing enforcement procedures (e.g. compulsory purchase). EDMOs should work in the interests of both owners and the local community, recognising that often owners are unable to manage the task of bringing a dilapidated property back into use but may be unwilling to sell. EDMOs will be used by local authorities in concert with other powers as part of a strategic approach to empty properties in the private sector.

### **Costs**

11. Any financial implications associated with the implementation of this Order will be expenditure incurred by local housing authorities. These costs will be met out of existing provision as resources for housing purposes are unhypothecated and are contained within General Capital Funding (GCF). Any additional financial implications for the Assembly are in terms of supplying copies of this SI to local authorities. These costs are minimal and will be met out of existing budgets held by the Housing Directorate. It is not possible to quantify the costs to local authorities as a result of the introduction of EDMOs as (a) we do not know how many local authorities will apply for them to be made, and consequently, (b) we cannot establish at this stage how many EDMOs in total there will be in Wales.
12. Local authorities currently have powers to deal with empty properties in the private sector (Housing Act 1985) and the introduction of EDMOs merely adds a further power to what authorities currently do in terms of enforcement. If an EDMO is made and an authority finds that remedial works need to be done to it an authority will be able to recoup the costs of the works out of future rental income.

### **Consultation**

#### With Stakeholders

13. Formal consultation on the policy behind the introduction of EDMOs took place in July 2003 with a closing date for responses of 22 September 2003. A list of consultees is attached at Annex A to the Regulatory Appraisal. A total of 15 responses were received to the consultation exercise the majority of which were in favour of the introduction of EDMOs as a valuable additional tool for local authorities to bring problem empty

properties back into use. The original policy behind this SI has not changed, therefore, further consultation was not considered necessary.

#### With Subject Committee

14. This Order was first notified to the Social Justice and Regeneration Committee on 3 May 2006, via the list of forthcoming legislation (SJR)(2)07-6 Paper 4: Annex 1) and has remained on the list ever since. It was not identified for detailed scrutiny. Progress on the provisions of the Housing Act 2004 has been regularly reported to the Social Justice and Regeneration Committee.

#### **Review**

15. The Assembly Government will review the operation and implementation of EDMOs within three years of their being introduced. This will give the new powers time to bed-in so that meaningful information and results can be gleaned from the review. There are no formal arrangements in place for reviewing the enforcement. It will be in the light of experience and discussions with relevant parties when empty dwelling management orders (EDMOs) have been in place for three years. England will be following the same approach. The legislation does not apply to Scotland or Northern Ireland.

#### **Summary**

16. This Order is an essential element in the additional measures contained in the Housing Act 2004 to deal with problem empty properties in the private sector that have been vacant for more than six months. When the Order is introduced it will further enable local authorities to tackle problems associated with long-term empty properties such as unpaid council tax, health hazards from dangerous buildings, derelict buildings used for drug abuse and bringing down the tone of neighbourhoods. It could also result in wasted resources when there are people in the area in housing need. The introduction of EDMOs will enable local authorities to bring properties that have been empty for more than six months back into use.

## **Annex A**

### **List of Consultees**

All Local Authorities in Wales  
All Police & Fire Authorities in Wales  
All Wales Chief Housing Officers Group  
Caer Las  
Cardiff Bond Board  
Cardiff Law Centre  
Care and Repair Cymru  
Chartered Institute of Housing Cymru  
Commission for Local Administration in Wales  
Council of Mortgage Lenders  
Federation of Small Business  
Health & Safety Executive in Wales  
National Federation of Builders (Wales Area)  
National Union of Students Wales  
Pembrokeshire Action for Single Homeless  
Royal Institution of Chartered Surveyors  
Salvation Army  
Shelter Cymru  
Society of Architects in Wales  
Society of Directors of Public Protection in Wales  
Thomas George Residential Property management  
Wales Council for Voluntary Action  
Wales Tourist Board  
Welsh Federation of Housing Associations  
Welsh Local Government Association