

**2017 No. 367**

**HOUSING, ENGLAND**

**The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017**

<i>Made</i>	- - - -	<i>13th March 2017</i>
<i>Laid before Parliament</i>		<i>15th March 2017</i>
<i>Coming into force</i>	- -	<i>6th April 2017</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 47(3) of the Housing and Planning Act 2016(a) and sections 74(15), 97(15) and 249A(7) of the Housing Act 2004(b).

**Citation and commencement**

- 1.—(1) These Regulations may be cited as the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017.
- (2) These Regulations come into force on 6th April 2017.
- (3) These Regulations apply in relation to local housing authorities in England only.

**Interpretation**

2. In these Regulations—

“the 2004 Act” means the Housing Act 2004;

“the 2007 Regulations” means the Rent Repayment Orders (Supplementary Provisions) (England) Regulations 2007(c);

“the 2016 Act” means the Housing and Planning Act 2016;

“enforcement function” means, in relation to a local housing authority(d)—

(a) any of its functions—

- (i) under Parts 1 to 4 of the 2004 Act; or
- (ii) under Part 2 of the 2016 Act; or

(b) where paragraph (a) does not apply, any of its functions, conferred on it as local housing authority—

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(a) 2016 c. 22. See section 214(1) for the definition of “regulations”.  
(b) 2004 c. 34 (“the 2004 Act”). Section 249A of the 2004 Act was inserted by section 126 of and paragraph 7 of Schedule 9 to the Housing and Planning Act 2016. See section 250 of the 2004 Act for the definition of “regulations” and section 26 of the 2004 Act for the meaning of “appropriate national authority”.  
(c) S.I. 2007/572.  
(d) See section 261 of the Housing Act 2004 and section 56 of the Housing and Planning Act 2016 for the definition of “local housing authority”.

- (i) connected with an investigation of, or proceedings relating to, a contravention of the law relating to housing or landlord and tenant; or
- (ii) connected with the promotion of compliance with the law relating to housing or landlord and tenant; and

“private rented sector” means—

- (a) a landlord under a tenancy of residential premises in England that is not a registered provider of social housing<sup>(a)</sup>;
- (b) residential premises in England that are let, or intended to be let, under a tenancy by a landlord that is not a registered provider of social housing;
- (c) common parts of such premises;
- (d) English letting agency work within the meaning of section 54 of the 2016 Act in relation to such premises; or
- (e) English property management work within the meaning of section 55 of the 2016 Act in relation to such premises;

and for the purpose of this definition “residential premises” has the meaning given by section 1 of the 2004 Act.

### **Application of amounts recovered under a rent repayment order under the 2016 Act**

**3.**—(1) A local housing authority may apply any amount recovered under a rent repayment order under Chapter 4 of Part 2 of the 2016 Act to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any amount recovered under a rent repayment order which is not applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

### **Application of financial penalties recovered**

**4.**—(1) A local housing authority may apply any financial penalty recovered under section 249A of the 2004 Act<sup>(b)</sup> to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any amount recovered as a financial penalty which is not applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

### **Amendments to the 2007 Regulations**

**5.** For regulations 3 and 4 in the 2007 Regulations substitute—

“**3.**—(1) A local housing authority may apply any amount recovered under a rent repayment order to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any amount recovered under a rent repayment order which is not applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

(3) In paragraph (1)—

“enforcement function” means, in relation to a local housing authority—

(a) any of its functions—

- (i) under Parts 1 to 4 of the 2004 Act; or

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(a) See section 80 of the Housing and Regeneration Act 2008 (c. 17) for the definition of registered providers of social housing.  
(b) Section 249A was inserted by paragraph 7 of Schedule 9 to the Housing and Planning Act 2016.

- (ii) under Part 2 of the 2016 Act; or
- (b) where paragraph (a) does not apply, any of its functions, conferred on it as local housing authority—
  - (i) connected with an investigation of, or proceedings relating to, a contravention of the law relating to housing or landlord and tenant; or
  - (ii) connected with the promotion of compliance with the law relating to housing or landlord and tenant; and

“private rented sector” means—

- (a) a landlord under a tenancy of residential premises in England that is not a registered provider of social housing<sup>(a)</sup>;
- (b) residential premises in England that are let, or intended to be let, under a tenancy by a landlord that is not a registered provider of social housing;
- (c) common parts of such premises;
- (d) English letting agency work within the meaning of section 54 of the 2016 Act in relation to such premises; or
- (e) English property management work within the meaning of section 55 of the 2016 Act in relation to such premises;

And for the purpose of this definition “residential premises” has the meaning given by section 1 of the 2004 Act.”.

Signed by authority of the Secretary of State for Communities and Local Government

*Gavin Barwell*  
Minister of State

13th March 2017

Department for Communities and Local Government

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for how a local housing authority in England must deal with any amount recovered under a rent repayment order under Chapter 4 of Part 2 of the Housing Act 2016 (c. 22) (“the 2016 Act”) or sections 73 or 96 of the Housing Act 2004 (c. 34) (“the 2004 Act”) and any financial penalty recovered under section 249A of the 2004 Act. Any such amount may be used to meet an authority’s costs and expenses incurred in carrying out its functions connected with the private rented sector under Parts 1 to 4 of the 2004 Act and Part 2 of the 2016 Act or connected with the enforcement of legal requirements under, and promotion of compliance with, other legislation relating to the private rented sector. If it is not used for that purpose the Local Housing Authority must pay it into the Consolidated Fund.

Regulation 3 makes provision in relation to rent repayment orders made under the 2016 Act.

Regulation 4 makes provision in relation to financial penalties imposed under section 249A of the 2004 Act.

Regulation 5 makes provision in relation to rent repayment orders made under sections 73 and 96 of the 2004 Act by amending the Rent Repayment Orders (Supplementary Provisions) (England) Regulations 2007 (S.I. 2007/572).

A full regulatory impact assessment has not been prepared for this instrument as no impact on business or the private or voluntary sector is foreseen where those organisations are compliant with the relevant legislation.

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(a) See section 80 of the Housing and Regeneration Act 2008 (c. 17) for the definition of registered providers of social housing.

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