

2010 No. 1809

LANDLORD AND TENANT, ENGLAND AND WALES

**The Dwelling Houses (Execution of Possession Orders by
Mortgagees) Regulations 2010**

<i>Made</i> - - - -	<i>13th July 2010</i>
<i>Laid before Parliament</i>	<i>19th July 2010</i>
<i>Coming into force</i> - -	<i>1st October 2010</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) to (5) of the Mortgage Repossessions (Protection of Tenants etc) Act 2010(a) (“the Act”).

The Lord Chancellor has consented to the making of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Dwelling Houses (Execution of Possession Orders by Mortgagees) Regulations 2010 and come into force on 1st October 2010.

Notice of execution of possession order: prescribed step and prescribed period

2. The prescribed step referred to in section 2(2)(a) of the Act is the mortgagee making an application to the court for a warrant for possession of the property.

3. The prescribed period referred to in section 2(2)(b) of the Act is fourteen days.

Prescribed form of notice of execution of possession order

4. The mortgagee’s notice of execution of the possession order must be in the form set out in the Schedule to these Regulations.

Manner of giving notice

5.—(1) The mortgagee’s notice under regulation 4 may be given in any of the following ways—

- (a) by sending the notice to the property by first class post or registered post in an envelope addressed—
 - (i) to the tenant by name, or
 - (ii) if the tenant’s name is not known, to “The Tenant or Occupier”;

- (b) by leaving the notice at the property—
 - (i) in an envelope addressed as described in subparagraph (a), or
 - (ii) affixed to and displayed in a prominent place where its contents can be read by a person entering the property; or
- (c) by personal service upon a person who appears to be in residence at the property.

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

Grant Shapps
Minister of State

12th July 2010 Department for Communities and Local Government

The Lord Chancellor consents to the making of these Regulations.

Jonathan Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

13th July 2010

SCHEDULE Regulation 4

Notice that your home is at risk
If you are paying rent to live in this property, please read the following carefully.
If you are an owner occupier, please seek advice on your position as different rules apply

This notice is given under Section 2(4) of the Mortgage Repossessions (Protection of Tenants etc) Act 2010.

I give you notice that the Lender/the Lender’s Agent has applied/will apply (delete as appropriate) to the court for a warrant for possession against this property on:.....

(Insert the date on which the application for the warrant for possession was made or will be made. The order will only be executed after the end of the 14 day prescribed period.)

At:.....

Tel:.....

Address:.....

(Insert the name, address and telephone number of the court at which the application has been or will be made.)

1. This notice advises you that **you could be evicted from your home**. For tenants, be advised that your landlord’s Lender has obtained an order for possession against the property. It is now seeking to enforce that order through the courts. Please read this notice carefully. If you need advice you should contact any of the following:

- a Citizens’ Advice Bureau;
- a housing advice organisation, or charity such as Shelter;

- a housing aid centre;
- a Law Centre;
- a solicitor.

2. The law gives certain tenants the right to apply to the Lender to ask it not to enforce the order for a period of two months. You should contact the Lender or its Agent on the number given to ask for this delay if you require it. This is to give you time to find somewhere else to live. If you are unsure whether you may qualify, you should seek advice immediately from one of the organisations listed, or a similar organisation. If the Lender agrees to your request, they must confirm this to you in writing. If the Lender refuses your request, or if you receive no reply, you may be able to make an application to court for a similar delay. The Lender may make any agreement with you conditional on you continuing to pay to live at the property. An application to the Lender or to the court should be accompanied by any evidence you have to prove the existence of your tenancy.

3. This notice is not directed at owner occupiers. If you pay a mortgage to live at the property, you should urgently seek advice on your position as you have different rights.

4. If you do not ask for a delay, the Lender can go ahead to obtain possession of this property. Although the warrant for possession cannot be executed earlier than 14 days after the date on which the Lender sent you this notice **you must act quickly if you are seeking the delay, otherwise you may run out of time.**

Served on:.....
 (Insert address of the property. Address to: “Tenant/Occupier” or name of tenant(s) if known).

Served by:..... (“the Lender”)

Tel:.....

Address:.....

(Insert full name of Lender, telephone number and address where enquiries about this notice can be made.)

If served by Lender’s Agent:

Served on:.....
 (Insert address of the property. Address to: “Tenant/Occupier” or name of tenant(s) if known).

Served by:..... (“the Lender’s Agent”)

On behalf of:..... (“the Lender”)

Tel:.....

Address:.....

(Insert full name of Lender’s Agent, telephone number and address where enquiries about this notice can be made.)

Signed..... Date.....

To be signed and dated by the Lender or the Lender's Agent

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Mortgage Repossessions (Protection of Tenants etc) Act 2010 ("the Act") empowers the Secretary of State to make Regulations providing for the giving of notice of execution of possession orders by mortgagees in relation to dwelling houses. These Regulations, which extend to England and Wales, provide for a notice of execution of possession order to be given at all residential properties where the mortgage lender ("the mortgagee") is seeking to execute a possession order against the borrower.

Regulation 2 specifies that the prescribed step for the purposes of section 2(2)(a) of the Act is the making, by the mortgagee, of an application to the court for a warrant for possession of the mortgaged dwelling house. Regulation 3 prescribes a period of fourteen days after the mortgagee has given notice of this step at the premises, during which the possession order may not be executed (see section 2(2)(b) of the Act).

Regulation 4 introduces the Schedule to the Regulations which prescribes a form for the purposes of giving notice at the property. Regulation 5 prescribes acceptable methods of giving the notice of execution of the possession order.

An impact assessment has been prepared in respect of the Act. It has been deposited in the Library of each House of Parliament and is available from the Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU or email kirstin.blagden@communities.gsi.gov.uk.

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