



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2003 Rhif 239 (Cy.36)

2003 No. 239 (W.36)

TAI, CYMRU

HOUSING, WALES

**Rheoliadau Dyrannu Tai (Cymru)
2003**

**The Allocation of Housing (Wales)
Regulations 2003**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn dirymu Rheoliadau Dyrannu Tai (Cymru) 2000 ac yn eu haildeddfu gyda newidiadau er mwyn cymryd i ystyriaeth y newidiadau i Ran VI o Ddeddf Tai 1996 ("Rhan VI") a wnaethpwyd gan Ddeddf Digartrefedd 2002. Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

These Regulations revoke and re-enact with changes the Allocation of Housing (Wales) Regulations 2000 to take account of the changes to Part VI of the Housing Act 1996 ("Part VI") made by the Homelessness Act 2002. These Regulations apply in Wales only.

Mae rheoliad 3 yn darparu ar gyfer achosion pan na fydd darpariaethau Rhan VI ynghylch dyrannu llety tai gan awduroddau tai lleol yn gymwys.

Regulation 3 makes provision for cases where the provisions of Part VI about the allocation of housing accommodation by local housing authorities do not apply.

Yn rhinwedd Adran 160A(1) a (3) o Ddeddf Tai 1996, rhaid i awdurdod tai lleol beidio â dyrannu llety tai i'r rhan fwyaf o ddosbarthiadau o bobl o dramor sy'n ddarostyngedig i reolaeth fewnfudo (o fewn ystyr Deddf Lloches a Mewnfudo 1996 (p.49)). Caiff Cynulliad Cenedlaethol Cymru bennu eithriadau. Mae'n gwneud felly, yn rheoliad 4, drwy ragnodi dosbarthiadau o bobl sy'n gymwys i ddyraniad o lety tai, er gwaethaf iddynt fod yn ddarostyngedig i reolaeth fewnfudo.

By virtue of Section 160A(1) and (3) of the 1996 Act, a local housing authority must not allocate housing accommodation to most classes of persons from abroad who are subject to immigration control (within the meaning of the Asylum and Immigration Act 1996 (c.49)). The National Assembly for Wales may prescribe exceptions. It does so, in regulation 4, by prescribing classes of persons that are eligible for an allocation of housing accommodation, despite being subject to immigration control.

Mae pobl o dramor nad ydynt yn ddarostyngedig i reolaeth fewnfudo yn gymwys i ddyraniad o lety tai o dan Ran VI o Ddeddf 1996, oni bai i Gynulliad Cenedlaethol Cymru ragnodi fel arall. (Adran 160A(5) o Ddeddf 1996). Drwy ragnodi dosbarth o bobl sy'n anghymwys o dan Ran VI mae'r Cynulliad yn gwneud hyn yn rheoliad 5. Mae'r dosbarth hwn yn cynnwys (gyda rhai eithriadau) pobl nad ydynt fel arfer yn preswyllo yn yr Ardal Deithio Gyffredin. Ystyr ('Ardal Deithio Gyffredin' yw'r Deyrnas Unedig, Ynysoedd y Sianel, Ynys Manaw a Gweriniaeth Iwerddon).

Persons from abroad, not subject to immigration control, are eligible for an allocation of housing accommodation under Part VI of the 1996 Act, unless the National Assembly for Wales prescribes otherwise. (Section 160A(5) of the 1996 Act.) The Assembly does so, in regulation 5, by prescribing a class of persons who are ineligible under Part VI. This class includes (with some exceptions) persons who are not habitually resident in the Common Travel Area. ('The Common Travel Area' means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland).

Mae rheoliad 6 yn dirymu Rheoliadau Dyrannu Tai (Cymru) 2000.

Mae'r Rheoliadau hyn, gyda mân newidiadau drafftio, yn cynnwys darpariaethau tebyg i'r rheini sydd yn Rheoliadau Dyrannu Tai (Cymru) 2000. Mae'r Rheoliadau nas ailddeddfwyd yn ymwneud â'r cyfyngiadau ar y dyrannu i bobl sydd eisoes yn denantiaid ac â'r gofynion i sefydlu, cynnal a gweithredu cofrestr dai, ac a ddiddymwyd bellach.

Mae Papurau Gorchymyn 2643, 3906, 9171 a 9512, y cyfeirir atynt yn y Rheoliadau hyn, allan o brint, ond gall y Llyfrfa gael llungopiâu o'r dogfennau hyn o Is-adran Llyfrgell Fenthyca Prydain (BLLD). Oni bai fod cwsmeriaid eisoes wedi cofrestru â'r BLLD, dylent archebu llungopiâu oddi wrth The Photocopying Unit, The Stationery Office, Nine Elms Lane, Llundain SW8 5DR, gan amgáu'r taliad priodol am y copïau y gofynnir amdanynt. Cost gyfredol pob copi cyflawn o Bapur Gorchymyn 2643, 3906 neu 9512 yw £6.00 a chost gyfredol pob copi cyflawn o Bapur Gorchymyn 9171 yw £12.00. Dylid gwneud sicciau yn daladwy i "Y Llyfrfa".

Regulation 6 revokes the Allocation of Housing (Wales) Regulations 2000.

These Regulations, with minor drafting changes, contain similar provisions to those in the Allocation of Housing (Wales) Regulations 2000. Those Regulations which have not been re-enacted relate to the restrictions on the allocation to existing tenants and to the requirements to establish, maintain and operate a housing register, which have now been repealed.

Command Papers 2643, 3906, 9171 and 9512, referred to in these Regulations, are out of print but photocopies of these documents can be obtained by The Stationery Office from the British Lending Library Division (BLLD). Customers, unless already registered with BLLD, should order photocopies from The Photocopying Unit, The Stationery Office, Nine Elms Lane, London SW8 5DR, enclosing the appropriate payment for the copies required. The current cost of each complete copy of Command Paper 2643, 3906 or 9512 is £6.00 and the current cost of each complete copy of Command Paper 9171 is £12.00. Cheques should be made payable to "The Stationery Office".

2003 Rhif 239(Cy.36)**2003 No. 239 (W.36)****TAI, CYMRU****HOUSING, WALES****Rheoliadau Dyrannu Tai (Cymru)
2003****The Allocation of Housing (Wales)
Regulations 2003***Wedi'u gwneud* 28 Ionawr 2003*Made* 28th January 2003*Yn dod i rym* 29 Ionawr 2003*Coming into force* 29 January 2003

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 160(4) a 160(3) a (5) a 215(2) o Ddeddf Tai 1996(a) ac a freiniwyd bellach yng Nghynulliad Cenedlaethol Cymru i'r graddau eu bod yn arferadwy mewn perthynas â Chymru:

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by sections 160(4), 160A(3) and (5) and 215(2) of the Housing Act 1996(a) which powers are now vested in the National Assembly for Wales so far as exercisable in relation to Wales:

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Dyrannu Tai (Cymru) 2003 a deuant i rym ar 29 Ionawr 2003.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

Citation, commencement and application

1.-(1) These Regulations may be cited as the Allocation of Housing (Wales) Regulations 2003 and shall come into force on 29 January 2003.

(2) These Regulations apply to Wales only.

Dehongli**2. Yn y Rheoliadau hyn-**

ystyr "Ardal Deithio Gyffredin" ("*the Common Travel Area*") yw'r Deyrnas Unedig, Ynysydd y Sianel, Ynys Manaw a Gweriniaeth Iwerddon gyda'i gilydd;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Tai 1996; ac

ystyr "y rheolau mewnfudo" ("*the immigration rules*") yw'r rheolau a osodir fel a grybwyllir yn adran 3(2) o Ddeddf Mewnfudo 1971(b) (darpariaethau cyffredinol ar gyfer rheoleiddio a rheolaeth).

Interpretation**2. In these Regulations-**

"the Act" ("*y Ddeddf*") means the Housing Act 1996;

"the Common Travel Area" ("*Ardal Deithio Gyffredin*") means the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively; and

"the immigration rules" ("*y rheolau mewnfudo*") mean the rules laid down as mentioned in section 3(2) of the Immigration Act 1971(b) (general provisions for regulation and control).

(a) 1996 p.52; ychwanegwyd adran 160 gan adran 14(2) o Ddeddf Digartrefedd (2002) (p.7); gweler adran 215(1) am y diffiniad o "prescribed". Mae swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 160, 160A, 172(4) a 215(2), i'r graddau eu bod yn arferadwy yng Nghymru, wedi'u trosglwyddo i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S.1999/672, (y mae diwygiadau iddo nad ydynt yn gymwys i'r Rheoliadau hyn)) ac adran 17(1) o Ddeddf Digartrefedd 2002.;

(b) 1971 p.77.

(a) 1996 c.52; section 160A was added by section 14(2) of the Homelessness Act 2002 (c.7); see section 215(1) for the definition of "prescribed". The functions of the Secretary of State under sections 160, 160A, 172(4) and 215(2) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, (to which there are amendments not relevant to these Regulations)) and section 17(1) of the Homelessness Act 2002.;

(b) 1971 c.77.

Achosion pan na fydd darpariaethau Rhan VI o'r Ddeddf yn gymwys

3. Nid yw darpariaethau Rhan VI o'r Ddeddf am ddyrannu llety tai yn gymwys yn yr achosion a ganlyn-

- (a) pan fydd awdurdod tai lleol yn sicrhau darpariaeth llety amgen addas o dan adran 39 o Ddeddf Iawndal Tir 1973(a) (dyletswydd i ailgartrefu meddianwyr preswyl);
- (b) mewn perthynas â rhoi tenantiaeth ddiogel o dan adran 554 a 555 o Ddeddf Tai 1985(b) (rhoi tenantiaeth i gyn berchen-feddiannydd neu denant statudol tŷ annedd diffygiol).

Dosbarthiadau a ragnodwyd o dan adran 160A(3) ac sy'n bersonau cymwys

4. Dyma'r dosbarthiadau o bobl sy'n ddarostyngedig i reolaeth fewnfudo ac a ragnodwyd at ddibenion adran 160A(3) o'r Ddeddf (personau a ragnodwyd fel rhai cymwys i ddyraniad o lety tai gan awdurdod tai lleol)-

- (a) Dosbarth A-person a gofnodwyd fel ffoadur gan yr Ysgrifennydd Gwladol o fewn diffiniad erthygl 1 o'r Confensiwn sy'n ymwneud â statws Ffoaduriaid ac a wnaethpwyd yng Ngenefa 28 Gorffennaf 1951(c) fel yr estynnwyd gan Erthygl 1(2) o'r Protocol sy'n ymwneud â Statws Ffoaduriaid ac a wnaethpwyd yn Efrog Newydd 31 Ionawr 1967(ch);
- (b) Dosbarth B-person-
 - (i) a gafodd ganiatâd arbennig gan yr Ysgrifennydd Gwladol i ddod i mewn i'r Deyrnas Unedig neu i aros ynddi y tu allan i ddarpariaethau'r rheolau mewnfudo; a
 - (ii) nad yw ei ganiatâd yn ddarostyngedig i amod sy'n ei wneud yn ofynnol iddo ei gynnal a'i letya ei hun, ac unrhyw berson sy'n ddibynnol arno, heb fynd ar ofyn cronfeydd cyhoeddus;
- (c) Dosbarth C-person a chanddo ganiatâd cyfredol i ddod i mewn i'r Deyrnas Unedig neu i aros ynddi ac nad yw'n ddarostyngedig i unrhyw gyfyngiad neu amod ac sydd fel arfer yn preswyllo yn yr Ardal Deithio Gyffredin heblaw person-

(a) 1973 p.26; diwygiwyd adran 39 gan Ran 1 o Atodlen 2 i Ddeddf Iawndal Tir (Yr Alban) 1973 (p.56), paragraff 40 o Atodlen 13 i Ddeddf Tai 1974 (p.44), paragraff 10 o Atodlen 7 i Ddeddf Datblygu Cymru Wledig 1976 (p.75), Rhan 1 o Atodlen 1 i Ddeddf Tai (Darpariaethau Canlyniadol) 1985 (p.71) a pharagraff 24 o Atodlen 2 iddi, Rhan 2 o Atodlen 12 i Ddeddf Llywodraeth Leol a Thai 1989 (p.42), a pharagraff 29 of Atodlen 2 i Ddeddf Cynllunio (Darpariaethau Canlyniadol) 1990 (p.11).

(b) 1985 p.68; diwygiwyd adran 554(61) gan baragraff 61 o Atodlen 17 i Ddeddf Tai 1988 (p.50) ac O.S.1996/2325.

(c) Gorch.9171.

(ch) Gorch.3906.

Cases where the provisions of Part VI of the Act do not apply

3. The provisions of Part VI of the Act about the allocation of housing accommodation do not apply in the following cases-

- (a) where a local housing authority secures the provision of suitable alternative accommodation under section 39 of the Land Compensation Act 1973(a) (duty to rehouse residential occupiers);
- (b) in relation to the grant of a secure tenancy under section 554 and 555 of the Housing Act 1985(b) (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

Classes prescribed under section 160A(3) who are eligible persons

4. The following are classes of persons subject to immigration control prescribed for the purposes of section 160A(3) of the Act (persons prescribed as eligible for an allocation of housing accommodation by a local housing authority)-

- (a) Class A-a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(c) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(d);
- (b) Class B-a person-
 - (i) who has been granted by the Secretary of State exceptional leave to enter or remain in the United Kingdom outside the provisions of the immigration rules; and
 - (ii) whose leave is not subject to a condition requiring them to maintain and accommodate themselves, and any person who is dependent on them, without recourse to public funds;
- (c) Class C-a person who has current leave to enter or remain in the United Kingdom which is not subject to any limitation or condition and who is habitually resident in the Common Travel Area other than a person-

(a) 1973 c.26; section 39 was amended by Part 1 of Schedule 2 to the Land Compensation (Scotland) Act 1973 (c.56), paragraph 40 of Schedule 13 to the Housing Act 1974 (c.44), paragraph 10 of Schedule 7 to the Development of Rural Wales Act 1976 (c.75), Part 1 of Schedule 1 and paragraph 24 of Schedule 2 to the Housing (Consequential Provisions) Act 1985 (c.71), Part 2 of Schedule 12 to the Local Government and Housing Act 1989 (c.42), and paragraph 29 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11).

(b) 1985 c.68; section 554 was amended by paragraph 61 of Schedule 17 to the Housing Act 1988 (c.50) and S.I. 1996/2325.

(c) Cmnd.9171.

(d) Cmnd.3906.

- (i) a gafodd ganiatâd i ddod i mewn i'r Deyrnas Unedig neu i aros ynddi ar sail ymgymeriad ysgrifenedig a roddwyd gan berson arall ("noddwr" y person hwnnw) yn unol â'r rheolau mewn fudo i fod yn gyfrifol am gynhaliadaeth a llety'r person hwnnw;
 - (ii) a fu'n preswyllo yn y Deyrnas Unedig am lai na phum mlynedd gan ddechrau ar y dyddiad pan ddaeth i mewn i'r wlad neu'r dyddiad y rhoddwyd yr ymgymeriad a grybwyllir uchod mewn perthynas â'r person hwnnw, p'un bynnag yw'r diweddaraf; a
 - (iii) y mae ei noddwr neu, os bydd rhagor nag un noddwr, o leiaf un o'i noddwyr, yn fyw o hyd;
- (d) Dosbarth Ch-person sydd fel arfer yn preswyllo yn yr Ardal Deithio Gyffredin ac sy'n-
- (i) wladolyn gwladwriaeth a gadarnhaodd Gonfensiwn Ewrop ar Gymorth Cymdeithasol a Meddygol a wnaethpwyd ym Mharis ar 11 Rhagfyr 1953(a) neu wladwriaeth a gadarnhaodd Siarter Gymdeithasol Ewrop a wnaethpwyd yn Nhorino (Turin) ar 18 Hydref 1961(b) ac sy'n gyfreithiol bresennol yn y Deyrnas Unedig; neu
 - (ii) cyn 3 Ebrill 2000 yr oedd ar awdurdod tai ddyletswydd iddo o dan Ran III o Ddeddf Tai 1985(c) (cartrefu'r digartref) neu Ran VII o'r Ddeddf (digartrefedd) sy'n bodoli, ac sy'n wladolyn gwladwriaeth a lofnododd Gonfensiwn Ewrop ar Gymorth Cymdeithasol a Meddygol a wnaethpwyd ym Mharis ar 11 Rhagfyr 1953 neu wladwriaeth a lofnododd Siarter Gymdeithasol Ewrop ar 18 Hydref 1961.
- (i) who has been given leave to enter or remain in the United Kingdom upon an undertaking given by another person (that person's "sponsor") in writing in pursuance of the immigration rules to be responsible for that person's maintenance and accommodation;
 - (ii) who has been resident in the United Kingdom for less than five years beginning on the date of entry or the date on which the above-mentioned undertaking was given in respect of that person, whichever date is the later; and
 - (iii) whose sponsor or, where is more than one sponsor, at least one of whose sponsors, is still alive;
- (d) Class D-a person who is habitually resident in the Common Travel Area and who-
- (i) is a national of a state which has ratified the European Convention on Social and Medical Assistance done at Paris on 11th December 1953(a) or a state which has ratified the European Social Charter done at Turin on 18th October 1961(b) and is lawfully present in the United Kingdom; or
 - (ii) before 3rd April 2000 was owed a duty by a housing authority under Part III of the Housing Act 1985(c) (housing the homeless) or Part VII of the Act (homelessness) which is extant, and who is a national of a state which is a signatory to the European Convention on Social and Medical Assistance done at Paris on 11th December 1953 or a state which is a signatory to the European Social Charter done at Turin on 18th October 1961.

Dosbarthiadau a ragnodwyd o dan adran 160A(5) nad ydynt yn bersonau cymwys

5. Dosbarth o bersonau, nad ydynt yn bersonau sy'n ddarostyngedig i reolaeth fewnfudo, ac a ragnodwyd at ddibenion adran 160A(5) o'r Ddeddf (personau a ragnodwyd yn anghymwys i gael dyraniad llety tai) yw'r canlynol-

Dosbarth D-person nad yw fel arfer yn preswyllo yn yr Ardal Deithio Gyffredin heblaw-

- (a) gweithiwr at ddibenion Rheoliad y Cyngor

(a) Gorch.9512.

(b) Gorch.2643.

(c) 1985 p.68. Nid yw diddymiad Rhan III, a ddechreuwyd gan Orchymyn Deddf Tai 1996 (Cychwyn Rhif 5 a Darpariaethau Trosiannol) (O.S. 1996/2959 (C.88)), yn rhinwedd paragraff 1 o'r Atodlen i'r Gorchymyn hwnnw, yn gymwys i ymgeiswyr o dan Ran III o'r Ddeddf honno ac a wnaeth geisiadau cyn 20 Ionawr 1997.

Classes prescribed under section 160A(5) who are not eligible persons

5. The following is a class of persons, not being persons subject to immigration control, prescribed for the purposes of section 160A(5) of the Act (persons prescribed as ineligible for an allocation of housing accommodation)-

Class E-a person who is not habitually resident in the Common Travel Area other than-

- (a) a worker for the purposes of Council

(a) Cmnd.9512.

(b) Cmnd.2643.

(c) 1985 c.68. The repeal of Part III, which was commenced by the Housing Act 1996 (Commencement No.5 and Transitional Provisions) Order 1996 (S.I.1996/2959 (C.88)), does not, by virtue of paragraph 1 of the Schedule to that Order, apply to applicants under Part III of that Act whose applications were made before 20th January 1997.

(CEE) Rhif 1612/68(a) neu (CEE) Rhif 1251/70(b);

- (b) person a chanddo hawl i breswyllo yn y Deyrnas Unedig yn unol â Gorchymyn Mewnfudo (Ardal Economaidd Ewropeaidd) 2000(c) ac sy'n deillio o Cyfarwyddeb y Cyngor Rhif 68/360/CEE(ch) neu Rif 73/148/CEE(d);
- (c) person sydd wedi ymadael â thriogaeth Montserrat ar ôl 1 Tachwedd 1995 oherwydd effaith ffrwydrad folcanig ar y diriogaeth honno.

Dirymu

6. Dirymwyd Rheoliadau Dyrannu Tai (Cymru) 2000(dd).

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(e).

28 Ionawr 2003

Llywydd y Cynulliad Cenedlaethol

Regulation (EEC) No. 1612/68(a) or (EEC) No. 1251/70(b);

- (b) a person with a right to reside in the United Kingdom pursuant to the Immigration (European Economic Area) Order 2000(c) and derived from Council Directive No. 68/360/EEC(d) or No. 73/148/EEC(e);
- (c) a person who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption.

Revocation

6. The Allocation of Housing (Wales) Regulations 2000(f) are revoked.

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

28th January 2003

D.Elis-Thomas

The Presiding Officer of the National Assembly

(a) OJ Rhif L 257 19.10.68, t. 2, Argraffiad Arbennig 1968 (II) t.475, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(b) OJ Rhif L 142 30.6.70, t.24 Argraffiad Arbennig 1970 (II) t.402.

(c) O.S. 2000/2326.

(ch) OJ Rhif L 257 19.10.68, t. 13, Argraffiad Arbennig 1968 (II) t.485, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(d) OJ Rhif L 172 28.6.73, t.14.

(dd) O.S. 2000/1080 (Cy.73).

(e) 1998 p.38.

(a) OJ No. L 257 19.10.68, p. 2, Special Edition 1968 (II) p.475, to which there are amendments not relevant to these Regulations.

(b) OJ No. L 142 30.6.70, p.24 Special Edition 1970 (II) p.402.

(c) S.I. 2000/2326.

(d) OJ No. L 257 19.10.68, p. 13, Special Edition 1968 (II) p.485, to which there are amendments not relevant to these Regulations.

(e) OJ No. L 172 28.6.73, p.14.

(f) S.I. 2000/1080 (W.73).

(g) 1998 c.38.

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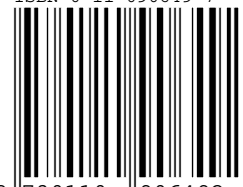
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