
WELSH STATUTORY INSTRUMENTS

2004 No. 681

**The Leasehold Valuation Tribunals
(Procedure) (Wales) Regulations 2004**

Name, commencement, and application

1.—(1) These Regulations are called the Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004.

(2) These Regulations shall come into force on 31st March 2004.

(3) These Regulations apply in relation to any application made, or proceedings transferred from a court, to a leasehold valuation tribunal⁽¹⁾ in respect of premises in Wales on or after 31st March 2004.

Interpretation

2. In these Regulations —

“the 1985 Act” (“*Deddf 1985*”) means the Landlord and Tenant Act 1985⁽²⁾;

“the 1987 Act” (“*Deddf 1987*”) means the Landlord and Tenant Act 1987;

“the 1993 Act” (“*Deddf 1993*”) means the Leasehold Reform, Housing and Urban Development Act 1993⁽³⁾;

“the 2002 Act” (“*Deddf 2002*”) means the Commonhold and Leasehold Reform Act 2002;

“applicant” (“*ceisydd*”) means —

- (a) the person making an application to a tribunal, or
- (b) the person who is the claimant or applicant in proceedings before a court which are transferred by order of the court to a tribunal;

“application” (“*cais*”) means, other than for the purposes of regulations 1, 20 and 25 —

- (a) an application to a tribunal of a description specified in Schedule 1, or
- (b) a transferred application;

“recognised tenants' association” (“*cymdeithas tenantiaid cydnabyddedig*”) has the same meaning as in section 29 of the 1985 Act⁽⁴⁾;

“representative application” (“*cais cynrychioladol*”) has the meaning given in regulation 8;

“respondent” (“*atebydd*”) means —

- (a) the person against whom an applicant seeks an order or determination from a tribunal; or
- (b) the person who is the defendant or respondent in proceedings before a court which are transferred by order of the court to a tribunal;

(1) See section 173 of the 2002 Act.

(2) 1985 c. 70.

(3) 1993 c. 28.

(4) Amended by paragraph 10 of Schedule 2 to the Landlord and Tenant Act 1987.

“transferred application” (“*cais a drosglwyddwyd*”) means so much of proceedings before a court as relate to a question falling within the jurisdiction of a tribunal as have been transferred to the tribunal for determination by order of the court; and

“tribunal” (“*tribiwnlys*”) means a leasehold valuation tribunal.

Particulars of applications

3.—(1) The particulars to be included with an application are —

- (a) the name and address of the applicant;
- (b) the name and address of the respondent;
- (c) the name and address of any landlord or tenant of the premises to which the application relates;
- (d) the address of the premises to which the application relates; and
- (e) a statement that the applicant believes that the facts stated in the application are true.

(2) Where an application is of a description specified in paragraph 1 of Schedule 1 (enfranchisement and extended leases) the particulars and documents listed in paragraph 1 of Schedule 2 shall be included with the application.

(3) Where an application is of a description specified in paragraph 2 of Schedule 1 (service charges, administration charges and estate charges) the particulars and documents listed in paragraph 2 of Schedule 2 shall be included with the application.

(4) Where an application is of a description specified in paragraph 3 of Schedule 1 (estate management schemes) the particulars and documents listed in paragraph 3 of Schedule 2 shall be included with the application.

(5) Where an application is of a description specified in paragraph 4 of Schedule 1 (right to manage) the particulars and documents listed in paragraph 4 of Schedule 2 shall be included with the application.

(6) Where an application is of a description specified in paragraph 5 of Schedule 1 (appointment of manager) the particulars and documents listed in paragraph 5 of Schedule 2 shall be included with the application.

(7) Where an application is of a description specified in paragraph 6 of Schedule 1 (variation of leases) the particulars and documents listed in paragraph 6 of Schedule 2 shall be included with the application.

(8) Any of the requirements in the preceding paragraphs may be dispensed with or relaxed if the tribunal is satisfied that —

- (a) the particulars and documents included with an application are sufficient to enable the application to be determined; and
- (b) no prejudice will, or is likely to, be caused to any party to the application.

Notice of application under Part 4 of the 1987 Act

4.—(1) The applicant shall give notice of an application under Part 4 of the 1987 Act (variation of leases) to the respondent and to any person who the applicant knows, or has reason to believe, is likely to be affected by any variation specified in the application.

(2) On receipt of the notice under paragraph (1) the respondent shall give notice of the application to any person not already notified under that paragraph, who the respondent knows, or has reason to believe, is likely to be affected by any variation specified in the application.

Notice of application by tribunal

5.—(1) On receipt of an application, other than an application made under Part 4 of the 1987 Act, the tribunal shall send a copy of the application and each of the documents accompanying it to each person named in it as a respondent.

(2) On receipt of an application of a description specified in paragraph 2 of Schedule 1 (service charges, administration charges and estate charges), the tribunal shall give notice of the application to —

- (a) the secretary of any recognised tenants' association mentioned in the particulars included in the application; and
- (b) any person, whose name and address the tribunal has, who the tribunal considers is likely to be significantly affected by the application.

(3) On receipt of an application the tribunal may give notice to any other person it considers appropriate.

(4) Any notice given under paragraph (2) or (3) shall include a statement that any person may make a request to the tribunal under regulation 6 to be joined as a party to the proceedings with details as to how such a request can be made.

(5) Any notice given under paragraph (2) or (3) may be given by local advertisement.

(6) In this regulation, “local advertisement” means publication of the notice in two newspapers (at least one of which should be a freely distributed newspaper) circulating in the locality in which the premises to which the application relates is situated.

Request to be treated as an applicant or respondent

6.—(1) Any person may make a request to the tribunal to be joined as a party to the proceedings.

(2) Any request under paragraph (1) —

- (a) may be made without notice; and
- (b) shall specify whether the person making the request wishes to be treated as —
 - (i) an applicant; or
 - (ii) a respondent,to the application.

(3) The tribunal may grant or refuse a request under paragraph (1).

(4) As soon as possible after reaching its decision on a request under paragraph (1), the tribunal shall —

- (a) notify the person making the request of the decision and the reasons for it; and
- (b) send a copy of the notification to the applicant and the respondent.

(5) Any person whose request under paragraph (1) is granted shall be treated as an applicant or respondent, as the case may be, for the purposes of regulations 8 to 18, 20 and 24.

(6) In the regulations mentioned in paragraph (5) any reference to —

- (a) an applicant, or
- (b) a respondent,

shall be construed as including a person treated as such under this regulation and any reference to a party shall be construed as including any such person.

Non-payment of fees

7.—(1) In any case where a fee which is payable under regulation 4 or 5 of the Leasehold Valuation Tribunals (Fees) (Wales) Regulations 2004⁽⁵⁾ is not paid in accordance with those Regulations, the tribunal shall not proceed further with the application to which the fee relates until the fee is paid.

(2) Where a fee remains unpaid for a period of one month from the date on which it becomes due, the application shall be treated as withdrawn unless the tribunal is satisfied that there are reasonable grounds not to do so.

Representative applications and other provisions for securing consistency

8.—(1) Where it appears to a tribunal that numerous applications —

- (a) have been made in respect of the same or substantially the same matters; or
- (b) include some matters which are the same or substantially the same,

the tribunal may propose to determine only one of those applications (“the representative application”) as representative of all of the applications on those matters which are the same or substantially the same (“the common matters”), and shall give notice of the proposal to the parties to all such applications.

(2) A notice under paragraph (1) shall —

- (a) specify the common matters;
- (b) specify the application which the tribunal proposes to determine as the representative application;
- (c) explain that the tribunal’s decision on the common matters in the representative application will apply to the common matters in any application made by a person to whom notice has been given under that paragraph;
- (d) invite objections to the tribunal’s proposal to determine the representative application; and
- (e) specify the address to which objections may be sent and the date (being not less than 21 days after the date that the notice was sent) by which the objections must be received by the tribunal.

(3) Where no objection is received on or before the date specified in the notice —

- (a) the tribunal shall determine the representative application in accordance with these Regulations;
- (b) the tribunal need not determine the matters mentioned in paragraph (1)(a) in any other application made by a person to whom a notice under paragraph (1) has been given; and
- (c) the decision of the tribunal in respect of the representative application shall be recorded as the decision of the tribunal in respect of the common matters in any such other application.

(4) Where an objection is received on or before the date specified in the notice —

- (a) sub-paragraphs (a) to (c) of paragraph (3) shall apply only to those applications in respect of which no objection was made, and
- (b) the application in respect of which an objection was made may be determined together with the representative application.

(5) [S.I. 2004/683 \(W.71\)](#).

Subsequent applications where notice of the representative application given

9.—(1) If, after a representative application has been determined, a subsequent application is made which includes any of the common matters on which the tribunal has made a decision in its determination of the representative application, and the applicant is a person to whom a notice under regulation 8(1) was given, the tribunal shall give notice to the parties to the subsequent application of —

- (a) the matters which, in the opinion of the tribunal, are the common matters in the subsequent application and the representative application;
 - (b) the decision recorded in respect of the common matters in the representative application;
 - (c) the date on which notice under regulation 8(1) was given to the applicant;
 - (d) the tribunal’s proposal to record the tribunal’s decision on the common matters in the subsequent application in identical terms to the decision in the representative application;
 - (e) the address to which objections to the tribunal’s proposal may be sent and the date (being not less than 21 days after the date that the notice was sent) by which such objections must be received by the tribunal; and
 - (f) a statement that any objection must include the grounds on which it is made and, in particular, whether it is alleged that the notice under regulation 8(1) was not received by the person making the objection.
- (2) Where no objection is received on or before the date specified in the notice —
- (a) the tribunal need not determine the matters mentioned in paragraph 1(a); and
 - (b) the decision of the tribunal in respect of the common matters in the representative application shall be recorded as the decision of the tribunal in respect of the common matters in the subsequent application.
- (3) Where an objection is received to the tribunal’s proposal on or before the date specified in the notice —
- (a) the tribunal shall consider the objection when determining the subsequent application; and
 - (b) if the tribunal dismisses the objection, it may record the decision mentioned in paragraph (1)(b) as the decision of the tribunal in the subsequent application.

Subsequent applications where notice of representative application not given

10.—(1) If, after a representative application has been determined, a subsequent application is made which includes any of the common matters on which the tribunal has made a decision in its determination of the representative application, and the applicant is not a person to whom a notice under regulation 8(1) was given, the tribunal shall give notice to the parties to the subsequent application of —

- (a) the matters which, in the opinion of the tribunal, are the common matters in the subsequent application and the representative application;
 - (b) the decision recorded in respect of those common matters in the representative application;
 - (c) the tribunal’s proposal to record its decision on the common matters in the subsequent application in identical terms to the decision in the representative application; and
 - (d) the address to which objections to the tribunal’s proposal may be sent and the date (being not less than 21 days after the date that the notice was sent) by which such objections must be received by the tribunal.
- (2) Where no objection is received on or before the date specified in the notice —
- (a) the tribunal need not determine the matters mentioned in paragraph (1)(a); and

- (b) the decision of the tribunal in respect of the common matters in the representative application shall be recorded as the decision of the tribunal in respect of the common matters in the subsequent application.

(3) Where an objection is received to the tribunal's proposal on or before the date specified in the notice the tribunal shall determine the application in accordance with the following provisions of these Regulations.

Dismissal of frivolous etc. applications

11.—(1) Subject to paragraph (2), where —

- (a) it appears to a tribunal that an application is frivolous or vexatious or otherwise an abuse of process of the tribunal; or
- (b) the respondent to an application makes a request to the tribunal to dismiss an application as frivolous or vexatious or otherwise an abuse of the process of the tribunal,

the tribunal may dismiss the application, in whole or in part.

(2) Before dismissing an application under paragraph (1) the tribunal shall give notice to the applicant in accordance with paragraph (3).

(3) Any notice under paragraph (2) shall state —

- (a) that the tribunal is minded to dismiss the application;
- (b) the grounds on which it is minded to dismiss the application;
- (c) the date (being not less than 21 days after the date that the notice was sent) before which the applicant may request to appear before and be heard by the tribunal on the question whether the application should be dismissed.

(4) An application may not be dismissed unless —

- (a) the applicant makes no request to the tribunal before the date mentioned in paragraph (3) (c); or
- (b) where the applicant makes such a request, the tribunal has heard the applicant and the respondent, or such of them as attend the hearing, on the question of the dismissal of the application.

Pre-trial review

12.—(1) The tribunal may, whether on its own initiative or at the request of a party, hold a pre-trial review in respect of an application.

(2) The tribunal shall give the parties not less than 14 days notice (or such shorter notice as the parties agree to) of the date, time and place of the pre-trial review.

(3) At the pre-trial review the tribunal shall —

- (a) give any direction that appears to the tribunal necessary or desirable for securing the just, expeditious and economical disposal of proceedings;
- (b) endeavour to secure that the parties make all such admissions and agreements as ought reasonably to be made by them in relation to the proceedings; and
- (c) record in any order made at the pre-trial review any such admission or agreement or any refusal to make such admission or agreement.

(4) The functions of the tribunal in relation to, or at, a pre-trial review may be exercised by any single member of the panel provided for in Schedule 10 to the Rent Act 1977⁽⁶⁾ who is qualified to exercise them⁽⁷⁾.

Determination without a hearing

13.—(1) A tribunal may determine an application without an oral hearing, in accordance with the following provisions of this regulation, if —

- (a) the respondent states in writing that he does not oppose the application;
- (b) the respondent withdraws any opposition to the application; or
- (c) the applicant and respondent so agree in writing.

(2) The tribunal shall —

- (a) notify the parties that the application is to be determined without an oral hearing;
- (b) invite written representations on the application;
- (c) set time limits for sending any written representations to the tribunal; and
- (d) set out how the tribunal intends to determine the matter without an oral hearing.

(3) At any time before the application is determined —

- (a) the applicant or the respondent may make a request to the tribunal to be heard; or
- (b) the tribunal may give notice to the parties that it intends to determine the application at a hearing in accordance with regulation 14.

(4) Where a request is made or a notice given under paragraph (3) the application shall be determined in accordance with regulation 14.

(5) The functions of the tribunal in relation to an application to be determined without an oral hearing may be exercised by a single member of the panel provided for in Schedule 10 to the Rent Act 1977, if he was appointed to that panel by the Lord Chancellor.

Hearings

14.—(1) Subject to regulations 8(3), 9(2) and 10(2), a hearing shall be on the date and at the time and place appointed by the tribunal.

(2) The tribunal shall give notice to the parties of the appointed date, time and place of the hearing.

(3) Subject to paragraph (4), notice under paragraph (2) shall be given not less than 21 days (or such shorter period as the parties may agree) before the appointed date.

(4) In exceptional circumstances the tribunal may, without the agreement of the parties, give less than 21 days notice of the appointed date, time and place of the hearing; but any such notice must be given as soon as possible before the appointed date and the notice must specify what the exceptional circumstances are.

(5) The tribunal may arrange that an application shall be heard together with one or more other applications.

(6) A hearing shall be in public unless, in the particular circumstances of the case, the tribunal decide that a hearing or part of a hearing shall be held in private.

(7) At the hearing —

- (a) the tribunal shall determine the procedure (subject to these Regulations) and the order in which the persons appearing before it are to be heard;

⁽⁶⁾ 1977 c. 42; to which there are amendments not relevant to these Regulations.

⁽⁷⁾ For who is qualified, *see* paragraph 5(3) of Schedule 12 to the 2002 Act.

- (b) a person appearing before the tribunal may do so either in person or by a representative authorised by that person, whether or not that representative is a barrister or a solicitor; and
- (c) a person appearing before the tribunal may give evidence on their own behalf, call witnesses, and cross-examine any witnesses called by any other person appearing.

(8) If a party does not appear at a hearing, the tribunal may proceed with the hearing if it is satisfied that notice has been given to that party in accordance with these Regulations.

Postponement and adjournment

15.—(1) Subject to paragraph (2) the tribunal may postpone or adjourn a hearing or pre-trial review either on its own initiative or at the request of a party.

(2) Where a postponement or adjournment has been requested the tribunal shall not postpone or adjourn the hearing except where it considers it is reasonable to do so having regard to —

- (a) the grounds for the request;
- (b) the time at which the request is made; and
- (c) the convenience of the other parties.

(3) The tribunal shall give reasonable notice of any postponed or adjourned hearing to the parties.

Documents

16.—(1) Before the date of the hearing, the tribunal shall take all reasonable steps to ensure that each of the parties is given —

- (a) a copy of any document relevant to the proceedings (or sufficient extracts from or particulars of the document) which has been received from any other party (other than a document already in that person’s possession or one of which that person has previously been supplied with a copy); and
- (b) a copy of any document which embodies the results of any relevant enquiries made by or for the tribunal for the purposes of the proceedings.

(2) At a hearing, if a party has not previously received a relevant document or a copy of, or sufficient extracts from or particulars of, a relevant document, then unless —

- (a) that person consents to the continuation of the hearing; or
- (b) the tribunal considers that that person has a sufficient opportunity to deal with the matters to which the document relates without an adjournment of the hearing,

the tribunal shall adjourn the hearing for a period which it considers will give that person a sufficient opportunity to deal with those matters.

Inspections

17.—(1) A tribunal may inspect —

- (a) the house, premises or area which is the subject of the application; or
- (b) any comparable house, premises or area to which its attention is directed.

(2) Subject to paragraph (3), the tribunal shall give the parties an opportunity to attend an inspection.

(3) The making of, and attendance at, an inspection is subject to any necessary consent being obtained.

(4) Where an inspection is to be made in the case of an application which is to be determined under regulation 13, the tribunal shall give notice to the parties.

- (5) Where an inspection is to be made before a hearing, the tribunal shall give notice to the parties.
- (6) Where an inspection is to be made during or after the close of a hearing, the tribunal shall give notice to the parties at the hearing.
- (7) A notice under paragraph (4), (5) or (6) shall —
- (a) state the date, time and place of the inspection;
 - (b) be given not less than 14 days before that date.
- (8) Where an inspection is made after the close of a hearing, the tribunal may reopen the hearing on account of any matter arising from the inspection.
- (9) The tribunal shall give reasonable notice of the date, time and place of the reopened hearing to the parties.
- (10) Any of the requirements for notice in the preceding paragraphs may be dispensed with or relaxed —
- (a) with the consent of the parties; or
 - (b) if the tribunal is satisfied that the parties have received sufficient notice.

Decisions

- 18.—**(1) This regulation applies to a decision on the determination of an application by —
- (a) a tribunal; or
 - (b) a single member, as mentioned in regulation 13(5).
- (2) If a hearing was held, the decision may be given orally at the end of the hearing.
- (3) A decision shall, in every case, be recorded in a document as soon as possible after the decision has been made.
- (4) A decision given or recorded in accordance with paragraph (2) or (3) need not record the reasons for the decision.
- (5) Where the document mentioned in paragraph (3) does not record the reasons for the decision, they shall be recorded in a separate document as soon as possible after the decision has been recorded.
- (6) A document recording a decision, or the reasons for a decision, shall be signed and dated by an appropriate person.
- (7) An appropriate person may, by means of a certificate signed and dated by that person, correct any clerical mistakes in a document or any errors arising in it from an accidental slip or omission.
- (8) In this regulation, “appropriate person” means —
- (a) where an application was determined by a single member as mentioned in regulation 13(5) —
 - (i) the single member; or
 - (ii) in the event of the person’s absence or incapacity, another member of the tribunal who was appointed by the Lord Chancellor;
 - (b) in any other case —
 - (i) the chairman of the tribunal; or
 - (ii) in the event of the person’s absence or incapacity, another member of the tribunal.
- (9) A copy of any document recording a decision, or the reasons for a decision, and a copy of any correction certified under paragraph (7) shall be sent to each party.

Enforcement

19. Any decision of the tribunal may, with the permission of the county court, be enforced in the same way as orders of such a court.

Permission to appeal

20. Where a party makes an application to a tribunal for permission to appeal to the Lands Tribunal —

- (a) the application shall be made to the tribunal within the period of 21 days starting with the date on which the document which records the reasons for the decision under regulation 18 was sent to that party; and
- (b) a copy of the application shall be served by the tribunal on every other party.

Attendance by member of Council on Tribunals

21. A member of the Council on Tribunals, who is acting in that capacity, may —

- (a) attend any hearings held, whether in public or private, in accordance with these Regulations;
- (b) attend any inspection for which any necessary consent has been obtained;
- (c) be present during, but not take part in, a tribunal’s deliberations in respect of an application.

Information required by tribunal

22. Where a tribunal serves a notice requiring information to be given under paragraph 4 of Schedule 12 to the 2002 Act, the notice shall contain a statement to the effect that any person who fails without reasonable excuse to comply with the notice commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Notices

23.—(1) Where any notice or other document is required under these Regulations to be given or sent to a person by the tribunal, it shall be sufficient compliance with the requirement if —

- (a) it is delivered or sent by pre-paid post to that person at that person’s usual or last known address;
- (b) it is sent to that person by fax or other means of electronic communication which produces a text of the document;
- (c) where that person has appointed an agent or representative to act on that person’s behalf—
 - (i) it is delivered or sent by pre-paid post to the agent or representative at the address of the agent or representative supplied to the tribunal; or
 - (ii) it is sent to the agent or representative by fax or other means of electronic communication which produces a text of the document.

(2) A notice or other document may be sent as mentioned in paragraphs (1)(b) or (c)(ii) only if that person or that person’s agent has given consent.

(3) A notice or other document sent as mentioned in paragraphs (1)(b) or (c)(ii) shall be regarded as sent when the text of it is received in legible form.

(4) This paragraph applies where —

- (a) an intended recipient —
 - (i) cannot be found after all diligent enquiries have been made;

- (ii) has died and has no personal representative; or
- (iii) is out of the United Kingdom; or
- (b) for any other reason a notice or other document cannot readily be given or sent in accordance with these Regulations.
- (5) Where paragraph (4) applies, the tribunal may —
 - (a) dispense with the giving or sending of the notice or other document ; or
 - (b) may give directions for substituted service in such other form (whether by advertisement in a newspaper or otherwise) or manner as the tribunal think fit.

Allowing further time

24.—(1) In a particular case, the tribunal may extend any period prescribed by these Regulations, or prescribed by a notice given under these Regulations, within which anything is required or authorised to be done.

(2) A party may make a request to the tribunal to extend any such period but must do so before that period expires.

Revocation and saving

25.—(1) Subject to paragraph (2) the Rent Assessment Committee (England and Wales) (Leasehold Valuation Tribunal) Regulations 1993⁽⁸⁾ (“the 1993 Regulations”) are hereby revoked in relation to Wales.

(2) The revocation in paragraph (1) shall not have effect in relation to any application made, or proceedings transferred from a court, to a tribunal before 31st March 2004.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁹⁾

9th March 2004

John Marek
The Deputy Presiding Officer of the National
Assembly

⁽⁸⁾ S.I. 1993/2408, as amended by S.I. 1996/2305, S.I. 1997/74 and S.I. 1997/1854.

⁽⁹⁾ 1998 c. 38.