



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2006 Rhif 2983 (Cy.274)

2006 No. 2983 (W.274)

TAI, CYMRU

HOUSING, WALES

**Rheoliadau Tenantiaethau
Rhagarweiniol (Adolygu
Penderfyniadau i Estyn Cyfnod
Treialu) (Cymru) 2006**

**The Introductory Tenancies
(Review of Decisions to Extend a
Trial Period) (Wales) Regulations
2006**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae Pennod 1 o Ran 5 o Ddeddf Tai 1996 yn sefydlu trefn tenantiaethau rhagarweiniol y caiff awdurdodau tai lleol ddewis ei gweithredu. Pan fo trefn o'r fath yn weithredol, mae'r denantiaeth yn "denantiaeth ragarweiniol" tan ddiwedd y cyfnod treialu, sef cyfnod o flwyddyn.

Chapter 1 of Part 5 of the Housing Act 1996 establishes a regime of introductory tenancies which local housing authorities may elect to operate. Where such a regime operates, the tenancy is an "introductory tenancy" until the end of the trial period which is for a period of one year.

Mae adran 179 o Ddeddf Tai 2004 yn diwygio'r Bennod honno i ganiatáu i awdurdodau tai lleol sydd wedi dewis gweithredu trefn tenantiaethau rhagarweiniol i estyn y cyfnod treialu mewn achosion unigol am gyfnod o chwe mis.

Section 179 of the Housing Act 2004 amends that Chapter to allow local housing authorities which have elected to operate an introductory tenancy regime to extend the trial period in individual cases for a period of six months.

Os bydd landlord yn dymuno estyn tenantiaeth ragarweiniol, rhaid iddo gyflwyno i'r tenant hysbysiad estyn sy'n nodi'r rhesymau dros benderfyniad y landlord ac sy'n dweud wrth y tenant am yr hawl i wneud cais am adolygiad o benderfyniad y landlord ac am y cyfnod amser y mae'n rhaid gwneud cais o'r fath ynddo. Mae'r Rheoliadau hyn yn gwneud darpariaeth ynglŷn â'r gweithdrefnau sydd i'w dilyn mewn adolygiad o'r fath.

If a landlord wishes to extend an introductory tenancy, it must serve the tenant with a notice of extension which sets out the reasons for the landlord's decision and tells the tenant of the right to request a review of the landlord's decision and the time in which such a request must be made. These Regulations make provision in respect of the procedures to be followed in such a review.

Mae rheoliad 2 yn darparu bod hawl gan y tenant i wneud cais am wrandawriad llafar ac yn nodi sut mae'r hawl honno i'w harfer.

Regulation 2 provides that the tenant is entitled to request an oral hearing and sets out how this right is to be exercised.

Mae rheoliad 3 yn ei gwneud yn ofynnol i'r landlord roi hysbysiad i'r tenant am yr adolygiad.

Regulation 3 requires the landlord to give the tenant notice of the review.

Mae rheoliad 4 yn darparu bod rhaid i'r adolygiad gael ei gynnal gan berson nad oedd ganddo ran yn y penderfyniad gwreiddiol. Os yw'r person sy'n cynnal yr adolygiad a'r person a wnaeth y penderfyniad i estyn

Regulation 4 provides that the review must be carried out by a person who was not involved in the original decision. If the person carrying out the review and the person who made the decision to extend the

y cyfnod treialu ill dau'n swyddogion i'r landlord, rhaid i'r person sy'n cynnal yr adolygiad fod yn uwch ei swydd yn sefydliad y landlord na'r person a wnaeth y penderfyniad gwreiddiol.

Mae rheoliad 5 yn nodi'r gofynion ynglŷn â sylwadau ysgrifenedig yn yr adolygiad.

Mae rheoliadau 6 i 9 yn nodi'r gweithdrefnau sydd i'w dilyn yn ystod adolygiad ar ffurf gwrandawriad llafar.

Mae arfarniad rheoliadol o'r effeithiau a fydd gan y Gorchymyn hwn ar gael oddi wrth yr Uned Rheoleiddio a Buddsoddi Tai Cymdeithasol, Yr Adran Cyfiawnder Cymdeithasol ac Adfywio, Cynulliad Cenedlaethol Cymru, Parc Cathays, Caerdydd CF10 3NQ (ffôn: 02920 825111); e-bost: HousingIntranet@wales.gsi.gov.uk.

trial period are both officers of the landlord, the person carrying out the review must hold a position in the landlord's organisation senior to the person who made the original decision.

Regulation 5 sets out the requirements in relation to written representations at the review.

Regulations 6 to 9 set out the procedures to be followed during a review by way of an oral hearing.

A regulatory appraisal of the effects that this Order will have is available from the Social Housing, Regulation and Investment Unit, Department for Social Justice and Regeneration, National Assembly for Wales, Cathays Park, Cardiff CF10 3NQ (telephone: 02920825111); email HousingIntranet@wales.gsi.gov.uk.

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Rheoliadau Tenantiaethau
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Treialu) (Cymru) 2006The Introductory Tenancies
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Trial Period) (Wales) Regulations
2006

Wedi'u gwneud 14 Tachwedd 2006
Yn dod i rym 17 Tachwedd 2006

Made 14 November 2006
Coming into force 17 November 2006

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 125B(3) a (4) o Ddeddf Tai 1996(1) yn gwneud y Rheoliadau a ganlyn:

The National Assembly for Wales, in exercise of the powers conferred upon it by section 125B(3) and (4) of the Housing Act 1996(1) makes the following Regulations:

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Tenantiaethau Rhagarweiniol (Adolygu Penderfyniadau i Estyn Cyfnod Treialu) (Cymru) 2006 a deuant i rym ar 17 Tachwedd 2006.

(2) Mae'r Rheoliadau hyn yn gymwys o ran tai annedd yng Nghymru.

(3) Yn y Rheoliadau hyn mae cyfeiriadau at—

- (a) tenant, yn gyfeiriadau at denant rhagarweiniol;
- (b) landlord, yn gyfeiriadau at awdurdod tai lleol sydd wedi dewis gweithredu trefn tenantiaethau rhagarweiniol; ac
- (c) penderfyniad, yn gyfeiriadau at benderfyniad i estyn cyfnod treialu.

Hawl i gael adolygiad ar ffurf gwrandawriad llafar

2.—(1) Pan fo tenant yn gwneud cais am hynny, rhaid i adolygiad o dan adran 125B o Ddeddf Tai 1996 o benderfyniad fod ar ffurf gwrandawriad llafar.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is The Introductory Tenancies (Review of Decisions to Extend a Trial Period) (Wales) Regulations 2006 and they come into force on 17 November 2006.

(2) These Regulations apply in relation to dwelling houses in Wales.

(3) In these Regulations references to—

- (a) a tenant are to an introductory tenant;
- (b) a landlord are to a local housing authority which has elected to operate an introductory tenancy regime; and
- (c) a decision are to a decision to extend a trial period.

Right to review by way of oral hearing

2.—(1) Where the tenant so requests, a review under section 125B of the Housing Act 1996 of a decision must be by way of an oral hearing.

(1) 1996 p.52; mewnosodwyd adran 125B gan adran 179 o Ddeddf Tai 2004 (2004 p.34). Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan Ran 5 o Ddeddf Tai 1996, i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (OS 1999/672) (y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn) ac adran 267 o Ddeddf Tai 2004.

(1) 1996 c.52; section 125B was inserted by section 179 of the Housing Act 2004 (2004 c.34). The functions of the Secretary of State under Part 5 of the Housing Act 1996 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 (SI 1999/672) (to which there are amendments not relevant to these Regulations) and section 267 of the Housing Act 2004.

(2) Rhaid gwneud unrhyw gais o'r fath i'r landlord cyn diwedd y cyfnod amser a ganiateir o dan is-adran (1) o'r adran honno (yr amser a ganiateir ar gyfer gwneud cais am adolygiad).

Hysbysiad am adolygiad

3. Rhaid i'r landlord roi i'r tenant hysbysiad o ddeng niwrnod clir o leiaf am—

- (a) dyddiad adolygiad; a
- (b) yn achos adolygiad ar ffurf gwrandawriad llafar, amser a lle'r adolygiad.

Personau sy'n cael cynnal adolygiadau

4.—(1) Rhaid i adolygiad gael ei gynnal gan berson nad oedd ganddo ran yn y penderfyniad.

(2) Pan fo'r adolygiad yn adolygiad o benderfyniad a wnaed gan un o swyddogion y landlord a bod yr adolygiad i'w gynnal gan swyddog arall, rhaid i'r swyddog sy'n adolygu'r penderfyniad fod mewn swydd uwch o fewn sefydliad y landlord na'r swyddog a wnaeth y penderfyniad.

Sylwadau ysgrifenedig yn yr adolygiad

5.—(1) P'un a yw'r adolygiad i'w gynnal ar ffurf gwrandawriad llafar ai peidio, caiff y tenant gyflwyno sylwadau ysgrifenedig i'r landlord mewn cysylltiad â'r adolygiad.

(2) Rhaid i'r sylwadau hynny ddod i law'r landlord nid llai na dau ddiwrnod clir cyn dyddiad yr adolygiad.

(3) Rhaid i'r landlord ystyried unrhyw sylwadau o'r fath sy'n dod i law erbyn y dyddiad hwnnw.

Y weithdrefn sydd i'w dilyn yn y gwrandawriad

6.—(1) Yn ddarostyngedig i ddarpariaethau'r Rheoliadau hyn, mae'r weithdrefn mewn adolygiad ar ffurf gwrandawriad llafar i'w phenderfynu gan y person sy'n cynnal yr adolygiad.

(2) Mae gan y tenant hawl—

- (a) i gael ei wrando ac i gael person arall gydag ef neu ei gael ei gynrychioli gan berson arall;
- (b) i alw personau i roi tystiolaeth yn y gwrandawriad; ac
- (c) i ofyn cwestiynau i unrhyw berson sy'n rhoi tystiolaeth yn y gwrandawriad.

(3) Mae unrhyw gynrychiolydd y tenant i gael yr un hawliau a phwerau â'r rhai sydd gan y tenant o dan y Rheoliadau hyn.

(2) Any such request must be made to the landlord before the end of the time permitted under subsection (1) of that section (time permitted for requesting review).

Notice of review

3. The landlord must give the tenant at least ten clear days' notice of—

- (a) the date of a review; and
- (b) in the case of a review by way of oral hearing, the time and place of the review.

Persons who may carry out reviews

4.—(1) A review must be carried out by a person who was not involved in the decision.

(2) Where the review is of a decision made by an officer of the landlord and is to be carried out by another officer, the officer reviewing the decision must occupy a position within the organisation of the landlord which is senior to that of the officer who made the decision.

Written representations at review

5.—(1) Whether or not the review is to be by way of oral hearing, the tenant may make written representations to the landlord in connection with the review.

(2) Such representations must be received by the landlord not less than two clear days before the date of the review.

(3) The landlord must consider any such representations which are received by that date.

Procedure to be followed at hearing

6.—(1) Subject to the provisions of these Regulations, the procedure at review by way of oral hearing is to be determined by the person who carries it out.

(2) The tenant has the right—

- (a) to be heard and to be accompanied or to be represented by another person;
- (b) to call persons to give evidence at the hearing; and
- (c) to put questions to any person who gives evidence at the hearing.

(3) Any representative of the tenant is to have the same rights and powers as the tenant has under these Regulations.

Absenoldeb tenant neu gynrychiolydd o wrandawriad

7. Pan fo'r landlord wedi rhoi hysbysiad yn unol â rheoliad 3 am adolygiad ar ffurf gwrandawriad llafar ac nad yw'r tenant na chynrychiolydd y tenant yn bresennol ar y dyddiad hwnnw, ac ar yr amser ac yn y lle yr hysbyswyd amdanynt, caiff y person sy'n cynnal yr adolygiad—

- (a) bwrw ymlaen â'r gwrandawriad; neu
- (b) llunio, gyda golwg ar ddull cynnal yr adolygiad, unrhyw gyfarwyddiadau y bydd y person hwnnw yn barnu eu bod yn briodol, gan ystyried yr holl amgylchiadau perthnasol, gan gynnwys unrhyw esboniad sy'n cael ei gynnig am yr absenoldeb.

Gohirio gwrandawriad

8.—(1) Pan fo'r landlord wedi rhoi hysbysiad yn unol â rheoliad 3 am adolygiad ar ffurf gwrandawriad llafar a bod y tenant yn gwneud cais am ei ohirio, caiff y landlord dderbyn neu wrthod y cais fel y gwêl yn dda.

(2) Os gohirir y gwrandawriad, rhaid i'r landlord roi hysbysiad rhesymol i'r tenant am ddyddiad, amser a lle'r gwrandawriad a ailgynnullir.

Torri yn ystod gwrandawriad

9.—(1) Caiff y person sy'n cynnal adolygiad ar ffurf gwrandawriad llafar dorri ar y gwrandawriad hwnnw ar unrhyw bryd o'i ben a'i bastwn ei hun, ar gais y tenant, cynrychiolydd y tenant neu'r landlord.

(2) Os bydd yr adolygiad hwnnw'n cael ei gynnal gan fwy nag un person a bod unrhyw un o'r personau hynny'n absennol, rhaid torri ar y gwrandawriad, oni bai bod y tenant neu gynrychiolydd y tenant yn cytuno fel arall.

(3) Os torrir ar yr adolygiad hwnnw ar ôl gwrandawriad rhannol ac nad y person a gynhaliodd y gwrandawriad y torrwyd arno gynt yw'r person sy'n cynnal y gwrandawriad a ailgynnullwyd, yna rhaid cynnal ailwrandawriad cyflawn oni fydd y tenant neu gynrychiolydd y tenant yn cytuno fel arall.

(4) Os torrir ar y gwrandawriad, rhaid i'r landlord roi hysbysiad rhesymol i'r tenant am ddyddiad, amser a lle'r gwrandawriad a ailgynnullir.

Absence of tenant or representative from hearing

7. Where the landlord has given notice in accordance with regulation 3 of a review by way of an oral hearing and neither the tenant nor the tenant's representative attends on the date, and at the time and place notified, the person carrying out the review may—

- (a) proceed with the hearing; or
- (b) make such directions with a view to the conduct of the review as that person considers appropriate, taking into account all relevant circumstances including any explanation offered for the absence.

Postponement of hearing

8.—(1) Where the landlord has given notice in accordance with regulation 3 of a review by way of an oral hearing and the tenant requests a postponement, the landlord may grant or refuse the request as it sees fit.

(2) If the hearing is postponed, the landlord must give the tenant reasonable notice of the time, date and place of the reconvened hearing.

Adjournment of hearing

9.—(1) The person carrying out a review by way of an oral hearing may adjourn it at any time on that person's own initiative, at the request of the tenant, the tenant's representative or the landlord.

(2) If such a review is being carried out by more than one person and any of those persons are absent, the hearing must be adjourned, unless the tenant or the tenant's representative agrees otherwise.

(3) If such a review is adjourned part-heard and the person carrying out the reconvened hearing is not the person who carried out the previously adjourned hearing, then a complete rehearing must be carried out unless the tenant or the tenant's representative agrees otherwise.

(4) If such a review is adjourned, the landlord must give the tenant reasonable notice of the date, time, and place of the reconvened hearing.

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

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

14 Tachwedd 2006

14 November 2006

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

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W409/12/06

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