



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2008 Rhif 254 (Cy.30)

2008 No. 254 (W.30)

TAI, CYMRU

HOUSING, WALES

Rheoliadau Gorchmynion Ad-dalu
Rhent (Darpariaethau Atodol)
(Cymru) 2008

The Rent Repayment Orders
(Supplementary Provisions)
(Wales) Regulations 2008

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn ategu darpariaethau adrannau 73, 74, 96 a 97 o Ddeddf Tai 2004 ("y Ddeddf"). Mae'r adrannau hynny'n ymwneud â chanlyniadau gweithredu tai amlfeddiannaeth ("HMOs") didrwydded neu dai didrwydded penodol eraill. Yn benodol, maent yn ymwneud â gwneud gorchmynion ad-dalu rhent ("GARh") gan driwlynlys eiddo preswyl ar gais awdurdod tai lleol.

These Regulations, which apply in relation to Wales, supplement the provisions of sections 73, 74, 96 and 97 of the Housing Act 2004 ("the Act"). Those sections deal with the consequences of operating unlicensed houses in multiple occupation ("HMOs") or certain other unlicensed houses. In particular, they deal with the making of rent repayment orders ("RROs") by a residential property tribunal on the application of a local housing authority.

Ni ellir gwneud GARh onid yw'r triwlynlys wedi'i fodloni o ran nifer o faterion. Y mater sy'n berthnasol at ddibenion y Rheoliadau hyn yw bod budd-dâl tai wedi cael ei dalu yn rhinwedd cynllun o dan adran 123 o Ddeddf Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992 o ran taliadau cyfnodol sy'n daladwy mewn cysylltiad â meddiannu rhan neu rannau o'r tŷ amlfeddiannaeth (adran 73(6)(b) o'r Ddeddf) neu'r cyfan neu unrhyw ran neu rannau o'r tŷ (adran 96(6)(b) o'r Ddeddf), yn ystod cyfnod pan ymddengys i'r triwlynlys bod tramgwydd o dan adran 72(1) o'r Ddeddf (ar gyfer HMOs) neu adran 95(1) o'r Ddeddf (ar gyfer tai eraill) yn cael ei chyflawni.

RROs cannot be made unless the tribunal is satisfied as to a number of matters. The matter that is relevant for the purposes of these Regulations is that housing benefit has been paid by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 in respect of periodical payments payable in connection with the occupation of a part or parts of the HMO (section 73(6)(b) of the Act) or the whole or any part or parts of the house (section 96(6)(b) of the Act), during a period during which it appears to the tribunal that an offence under section 72(1) of the Act (for HMOs) or section 95(1) of the Act (for other houses) was being committed.

Os bydd triwlynlys wedi'i fodloni bod person wedi cael ei gollfarnu o dramgwydd o dan adran 72(1) neu 95(1) o'r Ddeddf a bod budd-dâl tai wedi cael ei dalu fel y crybwyllir yn y paragraff blaenorol, mae adran 74(2) o'r Ddeddf (ar gyfer HMOs) ac adran 97(2) o'r Ddeddf (ar gyfer tai eraill) yn ei gwneud yn ofynnol i'r triwlynlys wneud GARh. Rhaid i'r gorchymyn ei gwneud yn ofynnol i'r person a oedd, ar yr adeg y talwyd y budd-dâl tai, â hawl i dderbyn y taliadau cyfnodol y talwyd y budd-dâl tai ar eu cyfer ("y person

Where the tribunal is satisfied that a person has been convicted of an offence under section 72(1) or 95(1) of the Act and that housing benefit was paid as mentioned in the previous paragraph, section 74(2) of the Act (for HMOs) and section 97(2) of the Act (for other houses) requires the tribunal to make a RRO. The order must require the person who, at the time that the housing benefit was paid, was entitled to receive the periodical payments in respect of which the housing benefit was paid ("the appropriate person") to pay to the local

priodol") dalu i'r awdurdod tai lleol swm sy'n hafal i gyfanswm y budd-dâl tai a dalwyd yn ystod y cyfnod yr ymddengys i'r tribiwnlys bod tramgwydd o dan adran 72(1) o'r Ddeddf (ar gyfer HMOs) neu adran 95(1) o'r Ddeddf (ar gyfer tai eraill) wedi cael ei gyflawni. Mae hyn yn ddarostyngedig i rai eithriadau, a osodir yn y Ddeddf.

Ym mhob achos arall, mae gan y tribiwnlys ddisgresiwn i wneud GARh am y swm hwnnw sy'n rhesymol yn yr amgylchiadau.

Mae rheoliad 2 o'r Rheoliadau hyn yn caniatáu i awdurdod tai lleol sydd wedi gwneud cais am GARh i ofyn am ganiatâd y tribiwnlys i ddiwygio'i gais os yw'n credu bod gordalu budd-dal tai wedi digwydd fel bod y cais yn ymwneud â swm y budd-dal tai y mae'r awdurdod tai lleol yn credu sy'n briodol daladwy o dan Reoliadau Budd-dal Tai 2006 neu Reoliadau Budd-dal Tai (Personau sydd wedi cyrraedd yr oed cymwys ar gyfer pensiwn credyd y wladwriaeth) 2006. Mae paragraff (3) o reoliad 2 yn diffinio "yn briodol daladwy".

Mae rheoliad 3 yn pennu'r dibenion y ceir defnyddio arian a dderbynnir gan awdurdod tai lleol o dan GARh ar eu cyfer. Mae eithriad ynghylch costau a threuliau a gaiff eu hadennill drwy ddulliau eraill, er enghraifft, drwy orchmynion llys neu o dan adran 129 o'r Ddeddf (ynghylch adennill costau gorchmynion rheoli).

Mae rheoliad 4 yn ei gwneud yn ofynnol i awdurdod tai lleol dalu i Gronfa Gyfunol Cymru symiau a dderbyniwyd o dan GARh nas defnyddir at ddiben a bennir yn rheoliad 3.

housing authority an amount equal to the total amount of housing benefit paid during the period during which it appears to the tribunal that an offence under section 72(1) of the Act (for HMOs) or section 95(1) of the Act (for other houses) was being committed. This is subject to some exceptions, set out in the Act.

In all other cases, the tribunal has a discretion to make a RRO for such an amount as is reasonable in the circumstances.

Regulation 2 of these Regulations permits a local housing authority that has made an application for a RRO to seek leave from the tribunal to amend its application where it believes that there has been an overpayment of housing benefit so that the application is in respect of the amount of housing benefit that the local housing authority believes is properly payable under the Housing Benefit Regulations 2006 or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Paragraph (3) of regulation 2 defines "properly payable".

Regulation 3 specifies the purposes for which monies received by a local housing authority under a RRO may be applied. There is an exception relating to costs and expenses recovered by other means, for example, court orders or under section 129 of the Act (relating to recovery of costs of management orders).

Regulation 4 requires a local housing authority to pay into the Welsh Consolidated Fund amounts received under a RRO that are not applied for a purpose specified in regulation 3.

2008 Rhif 254 (Cy.30)

TAI, CYMRU

**Rheoliadau Gorchmynion Ad-dalu
Rhent (Darpariaethau Atodol)
(Cymru) 2008**

Gwnaed 6 Chwefror 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 7 Chwefror 2008

Yn dod i rym 4 Mawrth 2008

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 74(15) a 97(15) o Ddeddf Tai 2004(1) ac sydd bellach wedi'u breinio(2) yng Ngweinidogion Cymru, yn gwneud y Rheoliadau canlynol:

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gorchmynion Ad-dalu Rhent (Darpariaethau Atodol) (Cymru) 2008, a deuant i rym ar 4 Mawrth 2008.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) Yn y Rheoliadau hyn, ystyr "y Ddeddf" ("*the Act*") yw Deddf Tai 2004.

(1) 2004 p.34. Mae'r pwerau a roddir gan adrannau 74(15) a 97(15) o'r Ddeddf yn arferadwy, o ran Cymru gan Gynulliad Cenedlaethol Cymru ac, o ran Lloegr, gan yr Ysgrifennydd Gwladol. *Gweler* y diffiniad o "*appropriate national authority*" yn adran 261(1).

(2) Trosglwyddwyd pwerau Cynulliad Cenedlaethol Cymru o dan adrannau 74(15) a 97(15) i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

2008 No. 254 (W.30)

HOUSING, WALES

**The Rent Repayment Orders
(Supplementary Provisions)
(Wales) Regulations 2008**

Made 6 February 2008

*Laid before the National
Assembly for Wales* 7 February 2008

Coming into force 4 March 2008

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 74(15) and 97(15) of the Housing Act 2004(1) and now vested(2) in the Welsh Ministers, make the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is The Rent Repayment Orders (Supplementary Provisions) (Wales) Regulations 2008 and they come into force on 4 March 2008.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations, "the Act" ("*y Ddeddf*") means the Housing Act 2004.

(1) 2004 c.34. The powers conferred by sections 74(15) and 97(15) of the Act are exercisable, as respects Wales by the National Assembly for Wales and, as respects England, by the Secretary of State. *See* the definition of the "*appropriate national authority*" in section 261(1).

(2) The powers of the National Assembly for Wales under sections 74(15) and 97(15) were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Diwygio cais am orchymyn ad-dalu rhent i dynnu ymaith Fudd-dâl Tai nad oedd yn briodol daladwy

2.—(1) Mae paragraff (2) yn gymwys os, yn ystod achos ar gais o dan is-adran (5) o adran 73 o'r Ddeddf (canlyniadau eraill ar weithredu HMOs didrwydded(1): gorchmynion ad-dalu rhent) neu is-adran (5) o adran 96 o'r Ddeddf (canlyniadau eraill ar weithredu tai didrwydded(2): gorchmynion ad-dalu rhent), daw i sylw'r awdurdod tai lleol ynghylch taliadau cyfnodol sy'n daladwy mewn cysylltiad â meddiannu rhan neu rannau o'r tŷ amlfeddiannaeth neu'r cyfan neu ran o'r tŷ y mae'r cais yn ymwneud ag ef y gall fod budd-dal tai wedi cael ei dalu(3) nad oedd yn briodol daladwy.

(2) Caiff awdurdod tai lleol wneud cais i dribiwnlys eiddo preswyl am ganiatâd i ddiwygio ei gais drwy roi yn lle cyfanswm y budd-dal tai a dalwyd, y rhan honno o'r swm hwnnw y mae'n credu sy'n briodol daladwy.

(3) At ddibenion paragraffau (1) a (2) mae swm o fudd-dal tai yn briodol daladwy os yw'r person y telir ef iddo, neu y telir ef ar ei gyfer, â hawl iddo o dan Reoliadau Budd-dal Tai 2006(4) neu Reoliadau Budd-dal Tai (Personau sydd wedi cyrraedd yr oed cymwys ar gyfer pensiwn credyd y wladwriaeth) 2006(5) (p'un ai yn y penderfyniad cychwynol neu fel y'i diwygiwyd neu y'i disodlwyd ar ôl hynny, neu fel y'i diwygiwyd ymhellach neu y'i disodlwyd ymhellach).

Defnyddio symiau a adenillwyd o dan orchymyn ad-dalu rhent

3.—(1) Yn ddarostyngedig i baragraff (3), caiff awdurdod tai lleol ddefnyddio swm a adenillwyd o dan orchymyn ad-dalu rhent at unrhyw rai o'r dibenion a grybwyllir ym mharagraff (2).

(2) Y dibenion yw ad-dalu costau a threuliau'r awdurdod (p'un ai gweinyddol neu gyfreithiol) a dynnwyd wrth, neu sy'n gysylltiedig â—

- (a) gwneud y cais o dan adran 73(5) o'r Ddeddf neu, yn ôl y digwydd, adran 96(5) o'r Ddeddf;
- (b) cofrestru a gorfodi unrhyw arwystl cyfreithiol o dan adran 74(9)(b) neu 97(9)(b) o'r Ddeddf ar yr eiddo perthnasol;

(1) I gael ystyr "HMO", gweler adrannau 55(2) a 77 o'r Ddeddf.

(2) I gael ystyr "house", gweler adran 99 o'r Ddeddf.

(3) O ran "housing benefit", a "periodical payments", gweler adran 96(10) o'r Ddeddf.

(4) O.S. 2006/213.

(5) O.S. 2006/214.

Amendment of a rent repayment order application to remove Housing benefit not properly payable

2.—(1) Paragraph (2) applies if, in the course of proceedings on an application under subsection (5) of section 73 of the Act (other consequences of operating unlicensed HMOs(1): rent repayment orders) or subsection (5) of section 96 of the Act (other consequences of operating unlicensed houses(2): rent repayment orders), it comes to the notice of the local housing authority that in respect of periodical payments payable in connection with occupation of the part or parts of the HMO or of the whole or part of the house to which the application applies there may have been a payment of housing benefit(3) that was not properly payable.

(2) A local housing authority may apply to the residential property tribunal for leave to amend the authority's application by substituting for the total amount of housing benefit paid, such part of that amount as the authority believes is properly payable.

(3) For the purposes of paragraphs (1) and (2) an amount of housing benefit is properly payable if the person to whom, or in respect of whom, it is paid is entitled to it under the Housing Benefit Regulations 2006(4) or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(5) (whether on the initial decision or as subsequently revised or superseded, or further revised or superseded).

Application of amounts recovered under a rent repayment order

3.—(1) Subject to paragraph (3), a local housing authority may apply an amount recovered under a rent repayment order for any of the purposes mentioned in paragraph (2).

(2) The purposes are the reimbursement of the authority's costs and expenses (whether administrative or legal) incurred in, or associated with—

- (a) the making of the application under section 73(5) of the Act or, as the case may be, section 96(5) of the Act;
- (b) the registration and enforcement of any legal charge under section 74(9)(b) or 97(9)(b) of the Act on the relevant property;

(1) As to the meaning of "HMO", see sections 55(2) and 77 of the Act.

(2) As to the meaning of "house", see section 99 of the Act

(3) As to "housing benefit", and "periodical payments", see section 96(10) of the Act.

(4) S.I. 2006/213.

(5) S.I. 2006/214.

- (c) ymdrin ag unrhyw gais am drwydded o ran yr eiddo perthnasol o dan Ran 2 o'r Ddeddf (trwyddedu HMOs) neu, yn ôl y digwydd, Rhan 3 o'r Ddeddf (trwyddedu dethol o lety preswyl arall);
- (ch) erlyn y person priodol am dramgwydd o dan adran 72(1) o'r Ddeddf neu, yn ôl y digwydd, adran 95(1) o'r Ddeddf, o ran yr eiddo perthnasol (p'un a gychwynnir achos cyn neu ar ôl gwneud y gorchymyn);
- (d) gwneud gorchymyn rheoli interim neu derfynol o dan Bennod 1 o Ran 4 o'r Ddeddf (gorchmynion rheoli interim a therfynol) o ran yr eiddo perthnasol (p'un a wneir y gorchymyn rheoli cyn neu ar ôl gwneud y gorchymyn ad-dalu rhent);
- (dd) rheoli'r eiddo perthnasol tra bo gorchymyn rheoli interim neu derfynol mewn grym;
- (e) cyflawni gwaith o ran yr eiddo perthnasol tra bo gorchymyn rheoli interim mewn grym; a
- (f) paratoi cynllun rheoli o dan adran 119 o'r Ddeddf (cynlluniau rheoli a chyfrifon), neu gyflawni gwaith o dan y cynllun, tra bo gorchymyn rheoli terfynol mewn grym.

(3) Nid oes dim ym mharagraff (1) yn awdurdodi defnyddio swm ar gyfer ad-dalu costau neu dreuliau awdurdod os cafodd y costau neu'r treuliau hynny eu talu eisoes gan neu ar ran y person priodol.

(4) Ym mharagraff (2), ystyr "yr eiddo perthnasol" yw tŷ amlfeddiannaeth neu dŷ y mae'r gorchymyn ad-dalu rhent yn berthnasol iddo.

Trin gwargedau

4. Rhaid talu swm a adenillir o dan orchymyn ad-dalu rhent nas defnyddir at ddiben a grybwyllir yn rheoliad 3(2), i Gronfa Gyfunol Cymru.

- (c) dealing with any application for the grant of a licence in respect of the relevant property under Part 2 of the Act (licensing of HMOs) or, as the case may be, Part 3 of the Act (selective licensing of other residential accommodation);
- (d) the prosecution of the appropriate person for an offence under section 72(1) of the Act or, as the case may be, section 95(1) of the Act, in relation to the relevant property (whether proceedings are instituted before or after the making of the order);
- (e) the making of an interim or final management order under Chapter 1 of Part 4 of the Act (interim and final management orders) in respect of the relevant property (whether the management order is made before or after the making of the rent repayment order);
- (f) the management of the relevant property while an interim or final management order is in force;
- (g) the execution of works undertaken in relation to the relevant property while an interim management order is in force; and
- (h) the preparation of, or execution of works under, a management scheme under section 119 of the Act (management schemes and accounts) while a final management order is in force.

(3) Nothing in paragraph (1) authorises the application of an amount by way of reimbursement of an authority's costs or expenses where those costs or expenses have already been paid by or on behalf of the appropriate person.

(4) In paragraph (2), "the relevant property" means the HMO or house to which the rent repayment order relates.

Treatment of surpluses

4. An amount recovered under a rent repayment order which is not applied for a purpose mentioned in regulation 3(2), must be paid into the Welsh Consolidated Fund.

Jocelyn Davies

O dan awdurdod y Gweinidog dros yr Amgylchedd,
Cynaliadwyedd a Thai, un o Weinidogion Cymru

Under authority of the Minister for Environment,
Sustainability and Housing, one of the Welsh Ministers

6 Chwefror 2008

6 February 2008

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