
WELSH STATUTORY INSTRUMENTS

2016 No. 1022 (W. 245)

HOUSING, WALES

The Regulation of Private Rented Housing (Rent Repayment Orders) (Supplementary Provisions) (Wales) Regulations 2016

<i>Made</i>	- - - -	<i>17 October 2016</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>21 October 2016</i>
<i>Coming into force</i>	- -	<i>24 November 2016</i>

The Regulation of Private Rented Housing (Rent Repayment Orders) (Supplementary Provisions) (Wales) Regulations 2016 The Welsh Ministers, in exercise of the power conferred on them by section 34(1) the Housing (Wales) Act 2014⁽¹⁾, make the following Regulations:

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Regulation of Private Rented Housing (Rent Repayment Orders) (Supplementary Provisions) (Wales) Regulations 2016 and they come into force on 24 November 2016.

(2) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Housing (Wales) Act 2014; and

“the authority” (“*yr awdurdod*”) means a licensing authority or a local housing authority.

Amendment of an application for a rent repayment order to remove housing benefit or a relevant award of universal credit not properly payable

2.—(1) Paragraph (2) applies if, in the course of proceedings on an application under section 32(1) of the Act (rent repayment orders), it comes to the notice of the authority that in respect of periodical payments payable in connection with a domestic tenancy of the dwelling to which the application relates there may have been a payment of housing benefit or of a relevant award of universal credit that was not properly payable.

(2) The authority may apply to the residential property tribunal for leave to amend their application by substituting—

(a) in the case of housing benefit, for the total amount of housing benefit paid, such part of that amount as they believe is properly payable;

- (b) in the case of a relevant award of universal credit, for the amount referred to in section 33(2)(a) of the Act that was originally believed to apply, the amount that is now believed to apply (if different).
- (3) For the purposes of paragraphs (1) and (2)—
 - (a) 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⁽²⁾ or the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽³⁾ (whether on the initial decision or as subsequently revised or superseded or further revised or superseded); and
 - (b) a relevant award of universal credit is properly payable if the person to whom, or in respect of whom, it is paid is entitled to it under the Universal Credit Regulations 2013⁽⁴⁾ (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), the 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 32(1) of the Act;
- (b) dealing with any application for a licence under Part 1 of the Act (Regulation of private rented housing);
- (c) the prosecution of the appropriate person for an offence under section 7(5) of the Act or, as the case may be, section 13(3) of the Act (whether proceedings are instituted before or after the making of the order).

(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.

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.

17 October 2016

Carl Sargeant
Cabinet Secretary for Communities and
Children, one of the Welsh Ministers

(2) [S.I. 2006/213](#).
(3) [S.I. 2006/214](#).
(4) [S.I. 2013/376](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement the provisions of sections 32 and 33 of the Housing (Wales) Act 2014 (“the Act”). Those sections deal with rent repayment orders. In particular, they deal with the making of rent repayment orders by a residential property tribunal (“the tribunal”) on the application of a licensing authority, a local housing authority (“the authority”) or a tenant of a dwelling.

Rent repayment orders 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 or one or more relevant awards of universal credit have been paid (whether or not to the appropriate person) (section 33(1)(b)), for a period during which it appears to the tribunal that an offence under section 7(5) or section 13(3) of the Act has been committed.

Where the tribunal is satisfied that a person has been convicted of an offence under section 7(5) or 13(3) of the Act and that housing benefit or a relevant award of universal credit was paid, section 33(1)(b) requires the tribunal to make a rent repayment order. The rent repayment order must require the person who, at the time that the housing benefit or a relevant award of universal credit was paid, was entitled to receive the periodical payments in respect of which the housing benefit or a relevant award of universal credit was paid (“the appropriate person”) to pay to the authority an amount equal to the total amount of housing benefit paid or relevant award of universal credit paid. The total amount of housing benefit or relevant award of universal credit paid is in respect of the period during which it appears to the tribunal that an offence under section 7(5) or section 13(3) of the Act was committed.

The tribunal has discretion to make a rent repayment order for such an amount as is reasonable in the circumstances.

Regulation 2 of these Regulations permits an authority that has made an application for a rent repayment order to seek leave from the tribunal to amend its application where it believes that there has been an overpayment of housing benefit or a relevant award of universal credit. The application is in respect of the amount of housing benefit or a relevant award of universal credit that the 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” in respect of housing benefit payable under the Housing Benefit Regulations 2006 and universal credit payable under the Universal Credit Regulations 2013.

Regulation 3 specifies the purposes for which monies received by the authority under a rent repayment order may be applied.

Regulation 4 requires the authority to pay into the Welsh Consolidated Fund amounts received under a rent repayment order that are not applied for the purposes specified in regulation 3.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with the Regulations.