



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 1356 (Cy.104)

2005 No. 1356 (W.104)

**LANDLORD A THENANT,
CYMRU**

**LANDLORD AND TENANT,
WALES**

**Rheoliadau Tribiwnlysoedd Prasio
Lesddaliadau (Gweithdrefn)
(Diwygio) (Cymru) 2005**

**The Leasehold Valuation Tribunals
(Procedure) (Amendment) (Wales)
Regulations 2005**

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 yn diwygio Rheoliadau Tribiwnlysoedd Prasio Lesddaliadau (Gweithdrefn) (Cymru) 2004 ("y Rheoliadau Gweithdrefn").

These Regulations amend the Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004 ("the Procedure Regulations").

Mae'r diwygiadau a wnaed gan reoliadau 3, 4(b), 7 ac 8(c) yn ganlyniadol i gychwyn adran 168 o Ddeddf Cyfunddaliad a Diwygio Cyfraith Lesddaliad 2002 ("Deddf 2002").

The amendments made by regulations 3, 4(b), 7 and 8(c) are consequential on the commencement of section 168 of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act").

Mae Adran 168 o Ddeddf 2002 yn atal landlord rhag cyflwyno hysbysiad i fforffedu les am fod tenant wedi torri cyfamed neu amod yn y les, oni bai bod y tenant yn cyfaddef ei dorri neu ei bod wedi'i benderfynu'n derfynol bod y toriad wedi digwydd. O dan adran 168(4), caiff landlord wneud cais i dribiwnlys prasio lesddaliadau am benderfyniad bod cyfamed neu amod wedi'i dorri.

Section 168 of the 2002 Act prevents a landlord from serving a notice to forfeit a lease for breach by a tenant of a covenant or condition in the lease, unless the tenant admits the breach or it has been finally determined that the breach has occurred. Under section 168(4), a landlord may apply to a leasehold valuation tribunal for a determination that a breach of covenant or condition has occurred.

Effaith y diwygiadau a wnaed gan reoliadau 3, 4(b), 7 ac 8(c) yw ychwanegu ceisiadau o dan adran 168(4) o Ddeddf 2002 at y ceisiadau y mae'r Rheoliadau Gweithdrefn yn gymwys iddynt, a'i gwneud yn ofynnol i'r ceisydd gynnwys gyda'i gais ddatganiad sy'n rhoi manylion am y toriad honedig o gyfamed neu amod a chopi o'r les o dan sylw.

The effect of the amendments made by regulations 3, 4(b), 7 and 8(c) is to add applications under section 168(4) of the 2002 Act to the applications to which the Procedure Regulations apply, and to require the applicant to include with the application a statement giving particulars of the alleged breach of covenant or condition and a copy of the lease concerned.

Mae'r diwygiad a wnaed gan reoliad 4(a) yn cael effaith o ran ceisiadau i dribiwnlys prasio lesddaliadau o dan adran 20ZA(1) o Ddeddf Landlord a Thenant 1985 i hepgor y cyfan neu unrhyw rai o'r gofynion

The amendment made by regulation 4(a) has effect as regards applications to a leasehold valuation tribunal under section 20ZA(1) of the Landlord and Tenant Act 1985 to dispense with all or any of the consultation

ymgyngori sy'n ymwneud â gwaith a chytundebau y caniateir adennill cyfraniadau ar eu cyfer fel taliadau gwasanaeth. Effaith y diwygiad yw dileu'r gofyniad (a osodwyd gan reoliad 3(3) o'r Rheoliadau Gweithdrefn, a pharagraff 2(3) o Atodlen 2 iddynt) i ddarparu copi o'r les wrth wneud cais o dan adran 20ZA(1).

Mae'r diwygiad a wnaed gan reoliad 5 yn galluogi tribiwnlys prisio lesddaliadau i benderfynu cais heb wrandawriad llafar pan fo wedi rhoi o leiaf 28 diwrnod o hysbysiad i'r ceisydd a'r ymatebydd ac nad yw'r naill na'r llall ohonynt wedi gofyn am wrandawriad llafar. (Nid yw'r diwygiad hwn yn effeithio ar Reoliad 13(3), sy'n galluogi'r tribiwnlys i benderfynu ar unrhyw bryd cyn bod cais yn cael ei benderfynu y dylai fod yn destun gwrandawriad llafar, ac sy'n caniatáu i'r naill barti neu'r llall ofyn am wrandawriad llafar ar unrhyw bryd cyn bod y cais yn cael ei benderfynu.)

Mae'r diwygiad a wnaed gan reoliad 6 yn tynnu oddi ar reoliad 17 o'r Rheoliadau Gweithdrefn y gofyniad i hysbysu yn y gwrandawriad lle mae arolygiad i'w gynnal yn ystod neu ar ôl diwedd y gwrandawriad. Mae'r gofyniad i roi o leiaf 14 diwrnod o hysbysiad i'r partïon o ddyddiad, amser a lle'r arolygiad yn aros heb ei newid, ond achubwyd ar y cyfle i wneud mân newidiadau drafftio.

Mae'r diwygiadau a wnaed gan reoliad 8(a) a (b) yn ei gwneud yn ofynnol i gyflwyno copi o'r les gyda cheisiadau penodol sy'n ymwneud â rhyddfrefinio neu estyn les, a chyda cheisiadau o dan Ran 4 o Ddeddf 1987 am amrywio les.

requirements relating to works and agreements for which contributions may be recovered by way of service charges. The effect of the amendment is to remove the requirement (imposed by regulation 3(3) of, and paragraph 2(3) of Schedule 2 to, the Procedure Regulations) to provide a copy of the lease when making an application under section 20ZA(1).

The amendment made by regulation 5 enables a leasehold valuation tribunal to determine an application without an oral hearing where it has given at least 28 days' notice to the applicant and the respondent and neither of them has asked for an oral hearing. (Regulation 13(3), which enables the tribunal to decide at any time before an application has been determined that it should be the subject of an oral hearing, and allows either of the parties to request an oral hearing at any time before the application has been determined, is unaffected by this amendment.)

The amendment made by regulation 6 removes from regulation 17 of the Procedure Regulations the requirement to give notice at the hearing where an inspection is to be made during or after the close of the hearing. The requirement to give at least 14 days' notice to the parties of the date, time and place of the inspection remains unchanged, but the opportunity has been taken to make minor drafting changes.

The amendments made by regulation 8(a) and (b) require the production of a copy of the lease with certain applications relating to enfranchisement or lease extension, and with applications under Part 4 of the 1987 Act for the variation of a lease.

2005 Rhif 1356 (Cy.104)**2005 No. 1356 (W.104)****LANDLORD A THENANT,
CYMRU****LANDLORD AND TENANT,
WALES****Rheoliadau Tribiwnlysoedd Prasio
Lesddaliadau (Gweithdrefn)
(Diwygio) (Cymru) 2005****The Leasehold Valuation Tribunals
(Procedure) (Amendment) (Wales)
Regulations 2005***Wedi'u gwneud**17 Mai 2005**Made**17 May 2005**Yn dod i rym**31 Mai 2005**Coming into force**31 May 2005*

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a freiniwyd ynddo o dan adran 35(5) o Ddeddf Landlord a Tenant 1987(1) ac Atodlen 12 i Ddeddf Cyfunddaliad a Diwygio Cyfraith Lesddaliad 2002(2), ac ar ôl ymgynghori â'r Cyngor Tribiwnlysoedd, yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of the powers vested in it under section 35(5) of the Landlord and Tenant Act 1987(1) and Schedule 12 to the Commonhold and Leasehold Reform Act 2002(2), and after consultation with the Council on Tribunals, makes the following Regulations:

Enwi, cychwyn a chymhwyso**Name, commencement and application**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Tribiwnlysoedd Prasio Lesddaliadau (Gweithdrefn) (Diwygio) (Cymru) 2005 a deuant i rym ar 31 Mai 2005.

1.-(1) These Regulations are called the Leasehold Valuation Tribunals (Procedure) (Amendment) (Wales) Regulations 2005 and shall come into force on 31 May 2005.

(2) Mae'r Rheoliadau hyn yn gymwys o ran ceisiadau a gyflwynir, neu achosion a drosglwyddir o lys, i dribiwnlys prasio lesddaliadau, ynghylch mangreoedd yng Nghymru ar neu ar ôl 31 Mai 2005.

(2) These Regulations apply in relation to applications made, or proceedings transferred from a court, to a leasehold valuation tribunal, on or after 31 May 2005, in respect of premises in Wales.

**Diwygio Rheoliadau Tribiwnlysoedd Prasio
Lesddaliadau (Gweithdrefn) (Cymru) 2004****Amendment of the Leasehold Valuation Tribunals
(Procedure) (Wales) Regulations 2004**

2. Diwygir Rheoliadau Tribiwnlysoedd Prasio Lesddaliadau (Gweithdrefn) (Cymru) 2004(3) yn unol â rheoliadau 3 i 8.

2. The Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004(3) shall be amended in accordance with regulations 3 to 8.

(1) 1987 p.31. Mae adran 35(5) wedi'i diwygio gan adran 163(2) o Ddeddf Cyfunddaliad a Diwygio Cyfraith Lesddaliad 2002 (p.15) ("Deddf 2002"). Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adran 35(5), i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo. O dan adran 177 o Ddeddf 2002, mae cyfeiriadau at Ddeddf 1987 yn O.S. 1999/672 i'w trin fel cyfeiriadau at y Ddeddf honno fel y'i diwygiwyd gan Ran 2 o Ddeddf 2002.

(1) 1987 c.31. Section 35(5) is amended by section 163(2) of the Commonhold and Leasehold Reform Act 2002 (c.15) ("the 2002 Act"). The functions of the Secretary of State under section 35(5) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Under section 177 of the 2002 Act, references to the 1987 Act in S.I. 1999/672 are to be treated as references to that Act as amended by Part 2 of the 2002 Act.

(2) 2002 p.15. *Gweler* adran 179(1) i gael y diffiniad o "the appropriate national authority" o ran Cymru.

(2) 2002 c.15. *See* section 179(1) for the definition of "the appropriate national authority" as respects Wales.

(3) O.S. 2004/681 (Cy.69).

(3) S.I. 2004/681 (W.69).

Cymhwysu'r Rheoliadau

3. Yn rheoliad 1 (enwi, cychwyn a chymhwyso), yn lle paragraff (3), rhodder -

"(3) Mae'r Rheoliadau hyn yn gymwys o ran unrhyw gais a wneir, neu achos a drosglwyddir o lys, i dribiwnlys prisio lesddaliadau ynghylch tir ac adeiladau yng Nghymru ar neu ar ôl -

- (a) yn achos cais o'r disgrifiad a bennir ym mharagraff 8 o Atodlen 1, 31 Mai 2005;
- (b) mewn unrhyw achos arall, 31 Mawrth 2004."

Manylion ceisiadau

4. Yn rheoliad 3 -

- (a) ym mharagraff (3), yn lle "ym mharagraff 2", y tro cyntaf y mae'n digwydd, rhodder "yn unrhyw un o is-baragraffau (b) i (dd) o baragraff 2"; a
- (b) ar ôl paragraff (7), mewnosoder y paragraff a ganlyn -
"(7A) Pan fo cais o'r disgrifiad a bennir ym mharagraff 8 o Atodlen 1 (penderfyniad a oes cyfamed neu amod wedi'i dorri) rhaid cynnwys y manylion a'r dogfennau a restrir ym mharagraff 7 o Atodlen 2 gyda'r cais."

Penderfynu heb wrandawriad

5. Yn rheoliad 13(1), yn lle is-baragraffau (a) i (c), rhodder yr is-baragraffau canlynol -

- "(a) os yw wedi rhoi i'r ceisydd a'r ymatebydd ddim llai na 28 diwrnod o hysbysiad ysgrifenedig o'i fwriad i fynd rhagddo heb wrandawriad llafar; a
- (b) os nad yw'r ceisydd na'r ymatebydd wedi cyflwyno cais i'r tribiwnlys am gael gwrandawriad,

ond nid yw'r paragraff hwn yn lleihau effaith paragraff (3)."

Arolygiadau

6. Yn rheoliad 17, yn lle paragraffau (4) i (7), rhodder y paragraffau canlynol -

- "(4) Pan fydd archwiliad i'w gynnal, rhaid i'r tribiwnlys roi hysbysiad i'r partïon.
- (5) Rhaid i hysbysiad o dan baragraff (4) -
 - (a) datgan dyddiad, amser a lle'r archwiliad; a
 - (b) cael ei roi nid llai na 14 diwrnod cyn y dyddiad hwnnw."

Application of Regulations

3. In regulation 1 (name, commencement and application), for paragraph (3), substitute -

"(3) These Regulations apply in relation to any application made, or proceedings transferred from a court, to a leasehold valuation tribunal in respect of premises in Wales on or after -

- (a) in the case of an application of the description specified in paragraph 8 of Schedule 1, 31 May 2005;
- (b) in any other case, 31 March 2004."

Particulars of applications

4. In regulation 3 -

- (a) in paragraph (3), for "paragraph 2", where it first occurs, substitute "any of sub-paragraphs (b) to (f) of paragraph 2"; and
- (b) after paragraph (7), insert the following paragraph -
"(7A) Where an application is of the description specified in paragraph 8 of Schedule 1 (determination as to breach of covenant or condition) the particulars and documents listed in paragraph 7 of Schedule 2 shall be included with the application."

Determination without a hearing

5. In regulation 13(1), for sub-paragraphs (a) to (c), substitute the following sub-paragraphs -

- "(a) it has given to both the applicant and the respondent not less than 28 days' notice in writing of its intention to proceed without an oral hearing; and
- (b) neither the applicant nor the respondent has made a request to the tribunal to be heard,

but this paragraph is without prejudice to paragraph (3)."

Inspections

6. In regulation 17, for paragraphs (4) to (7), substitute the following paragraphs -

- "(4) Where an inspection is to be made, the tribunal shall give notice to the parties.
- (5) A notice under paragraph (4) shall -
 - (a) state the date, time and place of the inspection; and
 - (b) be given not less than 14 days before that date."

Disgrifiadau o'r ceisiadau

7. Yn Atodlen 1, ar ôl paragraff 7, mewnosoder y paragraff a ganlyn -

"Penderfynu a oes cyfamod neu amod wedi'i dorri

8. Ceisiadau o dan adran 168(4) o Ddeddf 2002."

Manylion ceisiadau

8. Yn Atodlen 2 -

(a) ym mharagraff 1 (rhyddfrenio ac estyn lesoedd), ar ôl is-baragraff (5), mewnosoder yr is-baragraff canlynol -

"(6) Ac eithrio pan fydd cais yn cael ei wneud o dan adran 24, 25 neu 27 o Ddeddf 1993, copi o'r les.";

(b) ym mharagraff 6 (amrywio lesoedd), ar ôl is-baragraff (2), ychwaneger yr is-baragraff canlynol -

"(3) Copi o'r les."; ac

(c) ar ôl paragraff 6, ychwaneger y paragraff a ganlyn -

"Penderfynu ynghylch toriad cyfamod neu doriad amod

7.-(1) Datganiad sy'n rhoi manylion y toriad honedig o gyfamod neu amod.

(2) Copi o'r les sydd o dan sylw."

Descriptions of applications

7. In Schedule 1, after paragraph 7, insert the following paragraph -

"Determination as to breach of covenant or condition

8. Applications under section 168(4) of the 2002 Act."

Particulars of applications

8. In Schedule 2 -

(a) in paragraph 1 (enfranchisement and extended leases), after sub-paragraph (5), insert the following sub-paragraph -

"(6) Except where an application is made under section 24, 25 or 27 of the 1993 Act, a copy of the lease.";

(b) in paragraph 6 (variation of leases), after sub-paragraph (2), add the following sub-paragraph -

"(3) A copy of the lease."; and

(c) after paragraph 6, add the following paragraph -

"Determination of breach of covenant or condition

7.-(1) A statement giving particulars of the alleged breach of covenant or condition.

(2) A copy of the lease concerned."

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).

17 Mai 2005

17 May 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

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