
WELSH STATUTORY INSTRUMENTS

2007 No. 3162 (W.273)

LANDLORD AND TENANT, WALES

The Administration Charges (Summary of Rights and Obligations) (Wales) Regulations 2007

<i>Made</i>	- - - -	<i>5 November 2007</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>7 November 2007</i>
<i>Coming into force</i>	- -	<i>30 November 2007</i>

The Welsh Ministers⁽¹⁾, in exercise of the powers conferred on the National Assembly for Wales by paragraph 4(2) of Schedule 11 to the Commonhold and Leasehold Reform Act 2002⁽²⁾ and section 26 of the Welsh Language Act 1993⁽³⁾ and now vested in them, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Administration Charges (Summary of Rights and Obligations) (Wales) Regulations 2007 and they come into force on 30 November 2007.

(2) These Regulations apply where, on or after 30 November 2007, a demand for payment of an administration charge⁽⁴⁾ is served in relation to a dwelling⁽⁵⁾ in Wales.

Form and content of summary of rights and obligations

2. The summary of rights and obligations which must accompany a demand for the payment of an administration charge must be legible in a typewritten or printed form of at least 10 point, and must contain—

- (a) the title “Taliadau Gweinyddol – Crynodeb o hawliau a rhwymedigaethau tenantiaid / Administration Charges – Summary of tenants' rights and obligations”; and
- (b) the following statement—

(1) The powers conferred by paragraph 4(2) of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (c. 15) are exercisable, by the appropriate national authority. “Appropriate national authority” is defined in section 179(1) of that Act and means in relation to Wales, the National Assembly for Wales. By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), those functions are exercisable by the Welsh Ministers.

(2) 2002 c. 15.

(3) 1993 c. 38.

(4) For the meaning of “administration charge”, see paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

(5) For the meaning of “dwelling”, see section 38 of the Landlord and Tenant Act 1985 (c. 70).

“(1) Rhaid yn ôl y gyfraith i'r crynodeb hwn, sy'n gosod yn gryno eich hawliau a'ch rhwymedigaethau mewn cysylltiad â thaliadau gweinyddol, fynd gyda galwad am daliadau gweinyddol. Oni fydd crynodeb yn cael ei anfon atoch gyda'r alwad i dalu, gellwch ddal y taliad gweinyddol yn ôl. Nid yw'r crynodeb yn rhoi dehongliad llawn o'r gyfraith ac os ydych mewn unrhyw amheuaeth ynglyn a'ch hawliau a'ch rhwymedigaethau dylech geisio cyngor annibynnol.

(2) Taliad gweinyddol yw swm a all fod yn daladwy gennych fel rhan o'ch rhent yn uniongyrchol neu'n anuniongyrchol neu'n ychwanegol ato—

ar gyfer rhoi cymeradwyaeth dan les neu mewn cysylltiad â hynny;

ar gyfer darparu gwybodaeth neu ddogfennau neu mewn cysylltiad â hynny;

mewn cysylltiad â'ch methiant i wneud unrhyw daliad dyledus o dan eich les; neu mewn cysylltiad â thorri cyfamod neu amod yn eich les.

Os ydych yn atebol i dalu taliad gweinyddol, nid yw'n daladwy ond i'r graddau y mae'r swm yn rhesymol.

(3) Mae unrhyw ddarpariaeth a gynhwysir mewn dogfen yn rhoi les o dan yr hawl i brynu dan Ddeddf Tai 1985 sy'n honni gadael i'r landlord godi swm am ganiatâd neu gymeradwyaeth, yn ddi-rym.

(4) Mae gennych hawl i ofyn i dribiwnlys prisio lesddaliadau a yw taliad gweinyddol yn daladwy. Gellwch ofyn naill ai cyn neu ar ôl i chi dalu'r tâl gweinyddol. Os yw'r tribiwnlys prisio'n penderfynu fod y tâl yn daladwy fe all y bydd y tribiwnlys hefyd yn penderfynu—

pwy ddylai dalu'r tâl gweinyddol ac i bwy y dylid ei dalu;

y swm;

y dyddiad y

daw'n daladwy; a

sut y dylid ei dalu.

Nid oes gennych yr hawl hwn fodd bynnag—

pan fyddwch wedi cytuno ar fater neu wedi cyfaddef iddo;

pan fydd mater wedi cael ei gyfeirio i gymrodedd, neu y bydd yn cael ei gyfeirio felly, neu pan fydd wedi cael ei benderfynu drwy gymrodedd a'ch bod chi wedi cytuno i fynd i gymrodedd ar ôl i'r anghytundeb ynglyn â'r tâl gweinyddol godi; neu

pan fydd llys wedi penderfynu ar fater.

(5) Mae gennych hawl i wneud cais i dribiwnlys prisio lesddaliadau am orchymyn yn amrywio'r les ar y sail fod unrhyw daliad gweinyddol a bennir yn y les, neu unrhyw fformiwla a bennir yn y les ar gyfer cyfrifo taliad gweinyddol, yn afresymol.

(6) Pan fyddwch yn ceisio penderfyniad neu orchymyn gan dribiwnlys prisio lesddaliadau bydd rhaid i chi dalu ffi ar gyfer gwneud cais, ac os bydd y mater yn mynd ymlaen am wrandawriad, ffi gwrandawriad, oni fyddwch yn gymwys i gael hepgor neu ostwng y ffi. Ni fydd cyfanswm y ffioedd taladwy i'r tribiwnlys yn fwy na £500, ond gall costau ychwanegol, megis ffioedd proffesiynol, ddeillio o wneud cais, a dichon mai chi fydd raid eu talu.

(7) Mae gan dribiwnlys prisio lesddaliadau y pŵer i ddyfarnu costau, heb fod yn uwch na £500, yn erbyn parti mewn unrhyw achos—

pan fydd yn gwrthod mater oherwydd ei fod yn wacsaw, yn flinderus neu'n gamddefnydd o'r broses gyfreithiol; neu

pan fydd o'r farn fod parti wedi gweithredu'n wacsaw, yn flinderus, yn ddifriol, yn stwrllyd neu'n afresymol.

Mae gan y Tribiwnlys Tiroedd bwerau cyffelyb pan fydd yn clywed apêl yn erbyn penderfyniad gan driwiwnlys prisio lesddaliadau.

(8) Efallai bod eich les yn rhoi hawl i'ch landlord ail-feddiannu neu gymryd yn fforffed os ydych wedi methu talu taliadau sy'n briodol ddyledus o dan y les. I arfer yr hawl hwn fodd bynnag rhaid i'r landlord gwrdd â'r holl ofynion cyfreithiol a sicrhau gorchymyn llys. Dim ond os byddwch wedi cyfaddef eich bod yn atebol i dalu'r swm, neu os bydd llys, triwiwnlys, neu broses gymrodeddu wedi dyfarnu'n derfynol fod y swm yn ddyledus y rhoddir gorchymyn llys. Mae gan y llys ddisgresiwn eang wrth roi gorchymyn o'r fath a bydd yn cymryd ystyriaeth o holl amgylchiadau'r achos.

(1) This summary, which briefly sets out your rights and obligations in relation to administration charges, must by law accompany a demand for administration charges. Unless a summary is sent to you with a demand, you may withhold the administration charge. The summary does not give a full interpretation of the law and if you are in any doubt about your rights and obligations you should seek independent advice.

(2) An administration charge is an amount which may be payable by you as part of or in addition to the rent directly or indirectly—

for or in connection with the grant of an approval under your lease, or an application for such approval;

for or in connection with the provision of information or documents;

in respect of your failure to make any payment due under your lease; or

in connection with a breach of a covenant or condition of your lease.

If you are liable to pay an administration charge, it is payable only to the extent that the amount is reasonable.

(3) Any provision contained in a grant of a lease under the right to buy under the Housing Act 1985, which claims to allow the landlord to charge a sum for consent or approval, is void.

(4) You have the right to ask a leasehold valuation tribunal whether an administration charge is payable. You may make a request before or after you have paid the administration charge. If the tribunal determines the charge is payable, the tribunal may also determine—

who should pay the administration charge and to whom it should be paid;

the amount;

the date it should be paid by; and

how it should be paid.

However, you do not have this right where—

a matter has been agreed or admitted by you;

a matter has been, or is to be, referred to arbitration or has been determined by arbitration and you agreed to go to arbitration after the disagreement about the administration charge arose; or

a matter has been decided by a court.

(5) You have the right to apply to a leasehold valuation tribunal for an order varying the lease on the grounds that any administration charge specified in the lease, or any formula specified in the lease for calculating an administration charge, is unreasonable.

(6) Where you seek a determination or order from a leasehold valuation tribunal, you will have to pay an application fee and, where the matter proceeds to a hearing, a hearing fee, unless you qualify for a waiver or reduction. The total fees payable to the tribunal will not exceed £500, but making an application may incur additional costs, such as professional fees, which you may have to pay.

(7) A leasehold valuation tribunal has the power to award costs, not exceeding £500, against a party to any proceedings where—

- it dismisses a matter because it is frivolous, vexatious or an abuse of process; or
- it considers that a party has acted frivolously, vexatiously, abusively, disruptively or unreasonably.

The Lands Tribunal has similar powers when hearing an appeal against a decision of a leasehold valuation tribunal.

(8) Your lease may give your landlord a right of re-entry or forfeiture where you have failed to pay charges which are properly due under the lease. However, to exercise this right, the landlord must meet all the legal requirements and obtain a court order. A court order will only be granted if you have admitted you are liable to pay the amount or it is finally determined by a court, a tribunal or by arbitration that the amount is due. The court has a wide discretion in granting such an order and it will take into account all the circumstances of the case.”.

Jocelyn Davies

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

5 November 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the content of the summary of tenants' rights and obligations relating to administration charges which must accompany any demand for such charges made by a landlord. The Regulations also make provision for minor matters in respect of the form of the summary.

A Regulatory Impact Assessment has been prepared in relation to these Regulations. Copies may be obtained from the Welsh Assembly Government, Housing Directorate, Private Sector Unit, Rhydycar, Merthyr Tydfil, CF48 1UZ (telephone 01685 729181), or HousingDirectorate@wales.gsi.gov.uk.