



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2019 Rhif 1151 (Cy. 201)

2019 No. 1151 (W. 201)

TAI, CYMRU

HOUSING, WALES

Rheoliadau Deddf Rhentu Cartrefi
(Ffioedd etc.) (Cymru) 2019
(Darpariaeth Drosiannol ar gyfer
Tenantiaethau Byrddaliadol Sicr)
2019

The Renting Homes (Fees etc.)
(Wales) Act 2019 (Transitional
Provision for Assured Shorthold
Tenancies) Regulations 2019

NODYN ESBONIADOL

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

Mae Deddf Rhentu Cartrefi (Ffioedd etc.) (Cymru) 2019 (“y Ddeddf”) yn gwahardd landlord, asiant gosod eiddo neu unrhyw berson arall rhag ei gwneud yn ofynnol i daliad gwaharddedig gael ei wneud i'r landlord, i'r asiant gosod eiddo neu i unrhyw berson arall—

- (a) yn gydnabyddiaeth am roi neu am adnewyddu contract meddiannaeth safonol, neu am barhau â chontract o'r fath, neu
- (b) yn unol â theler mewn contract meddiannaeth safonol sy'n honni ei bod yn ofynnol i'r taliad gael ei wneud.

Mae taliadau yn waharddedig oni bai eu bod yn daliadau a ganiateir o dan Atodlen 1 i'r Ddeddf. Mae'r Ddeddf hefyd yn gwneud darpariaeth ynghylch blaendaliadau cadw ac mewn perthynas â gofynion i roi cyhoeddusrwyddd i ffioedd penodol a godir gan asiantiaid gosod eiddo.

Mae rheoliad 3 yn gwneud darpariaeth drosiannol er mwyn cymhwyso Rhannau 1 i 5 a 7 o'r Ddeddf i denantiaeth fyrddaliadol sicr o dan Ran 1 o Ddeddf Tai 1988 (“Deddf 1988”). Mae'r ddarpariaeth drosiannol a wneir mewn cysylltiad ag adran 20 o'r Ddeddf yn rheoliad 3(d) yn cyfyngu landlord annedd sy'n ddarostyngedig i gontract meddiannaeth safonol rhag rhoi hysbysiad o dan adran 21(1)(b) neu (4)(a) o Ddeddf 1988 (“hysbysiad adran 21”) mewn perthynas

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Renting Homes (Fees etc.) (Wales) Act 2019 (“the Act”) prohibits a landlord, letting agent or any other person from requiring a prohibited payment to the landlord, letting agent or any other person—

- (a) in consideration of the grant, renewal or continuance of a standard occupation contract, or
- (b) pursuant to a term of a standard occupation contract which purports to require the payment to be made.

Payments are prohibited unless they are permitted under Schedule 1 to the Act. The Act also makes provision about holding deposits and in relation to requirements to publicise certain fees charged by letting agents.

Regulation 3 makes transitional provision so as to apply Parts 1 to 5 and 7 of the Act to an assured shorthold tenancy under Part 1 of the Housing Act 1988 (“the 1988 Act”). The transitional provision made in respect of section 20 of the Act in regulation 3(d) restricts a landlord of a dwelling that is subject to a standard occupation contract from giving a notice under section 21(1)(b) or (4)(a) of the 1988 Act (“section 21 notice”) in relation to the dwelling if the

â'r annedd os yw'r landlord wedi ei gwneud yn ofynnol i daliad gwaharddedig gael ei wneud ac, o ganlyniad i'r gofyniad hwnnw, os oes taliad wedi ei wneud ond nad yw wedi ei ad-dalu. Yn yr un modd, os yw blaendal cadw a dalwyd mewn perthynas â chontract meddiannaeth safonol heb ei ad-dalu ac os yw'r amgylchiadau'n golygu bod y methiant i ad-dalu'r blaendal yn gyfystyr â thorri gofynion Atodlen 2 i'r Ddeddf, ni chaniateir rhoi hysbysiad adran 21.

O dan Ddeddf Rhentu Cartrefi (Cymru) 2016 ("Deddf 2016") mae tenantiaeth fyrddaliadol sicr yn trosi'n gontract meddiannaeth safonol yn rhinwedd adran 240 o Ddeddf 2016, ac Atodlen 12 iddi. Mae Deddf 2016 yn gwneud darpariaeth ynghylch tenantiaethau a thrwyddedau sy'n rhoi'r hawl i feddiannu annedd fel cartref, gan gynnwys darpariaeth sy'n sefydlu dau fath o gontract at ddiben rhentu cartrefi. Diffinnir "annedd" yn adran 246 o Ddeddf 2016 fel annedd sy'n gyfan gwbl yng Nghymru. Mae'r Ddeddf yn dilyn diffiniad Deddf 2016 o "annedd", felly nid yw'r Rheoliadau hyn yn gymwys i denantiaeth fyrddaliadol sicr eiddo trawsffiniol (h.y. annedd nad yw'n gyfan gwbl yng Nghymru).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

landlord has required a prohibited payment and, as a result of that requirement, a payment has been made but not repaid. Similarly, if a holding deposit paid in relation to a standard occupation contract has not been repaid and the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to the Act, a section 21 notice may not be given.

Under the Renting Homes (Wales) Act 2016 ("the 2016 Act") an assured shorthold tenancy converts to a standard occupation contract by virtue of section 240 of, and Schedule 12 to, the 2016 Act. The 2016 Act makes provision about tenancies and licences which confer the right to occupy a dwelling as a home, including provision establishing two kinds of contract for the purpose of renting homes. A "dwelling" is defined in section 246 of the 2016 Act as a dwelling which is wholly in Wales. The Act follows the 2016 Act definition of "dwelling", therefore, these Regulations do not apply to an assured shorthold tenancy of a cross border property (i.e., a dwelling which is not wholly in Wales).

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 these Regulations.

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Tenancies) Regulations 2019

Gwnaed 18 Gorffennaf 2019

Made 18 July 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 22 Gorffennaf 2019

Laid before the National Assembly for Wales
22 July 2019

Yn dod i rym 1 Medi 2019

Coming into force 1 September 2019

Mae Gweinidogion Cymru, drwy arfer y pŵer a roddir iddynt gan adran 25 o Ddeddf Rhentu Cartrefi (Ffioedd etc.) (Cymru) 2019(1), yn gwneud y Rheoliadau a ganlyn.

The Welsh Ministers, in exercise of the power conferred on them by section 25 of the Renting Homes (Fees etc.) (Wales) Act 2019(1), make the following Regulations.

Enwi a chychwyn

Title and commencement

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Deddf Rhentu Cartrefi (Ffioedd etc.) (Cymru) 2019 (Darpariaeth Drosiannol ar gyfer Tenantiaethau Byrddaliadol Sicr) 2019.

1.—(1) The title of these Regulations is the Renting Homes (Fees etc.) (Wales) Act 2019 (Transitional Provision for Assured Shorthold Tenancies) Regulations 2019.

(2) Daw'r Rheoliadau hyn i rym ar 1 Medi 2019.

(2) These Regulations come into force on 1 September 2019.

Dehongli

Interpretation

2. Yn y Rheoliadau hyn—

2. In these Regulations—

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Rhentu Cartrefi (Ffioedd etc.) (Cymru) 2019;

“the Act” (“*y Ddeddf*”) means the Renting Homes (Fees etc.) (Wales) Act 2019;

mae i “tenantiaeth fyrddaliadol sicr” yr un ystyr ag “assured shorthold tenancy” yn Rhan 1 o Ddeddf Tai 1988(2).

“assured shorthold tenancy” (“*tenantiaeth fyrddaliadol sicr*”) has the same meaning as in Part 1 of the Housing Act 1988(2).

(1) 2019 decc 2; gweler adran 28 am y diffiniad o “rheoliadau”.
(2) 1988 p. 50.

(1) 2019 anaw 2; see section 28 for the definition of “regulations”.
(2) 1988 c. 50.

Cymhwyso Rhannau 1 i 5 a 7 o'r Ddeddf mewn cysylltiad â thenantiaethau byrddaliadol sicr

3. Mae Rhannau 1 i 5 a 7 o'r Ddeddf (gan gynnwys adran 20, o'i darllen fel y darperir ar ei chyfer yn y rheoliad hwn) i'w trin fel pe baent yn cael effaith mewn perthynas â thenantiaethau byrddaliadol sicr, ac at y diben hwn—

- (a) mae cyfeiriadau yn y Ddeddf at gontract meddiannaeth safonol i'w darllen fel cyfeiriadau at denantiaeth fyrddaliadol sicr,
- (b) mae cyfeiriadau yn y Ddeddf at ddeiliad contract i'w darllen fel cyfeiriadau at denant o dan denantiaeth fyrddaliadol sicr,
- (c) mae cyfeiriadau yn y Ddeddf at landlord i'w darllen fel pe bai iddynt yr un ystyr â chyfeiriadau at landlord yn Neddf Tai 1988,
- (d) mae adran 20 o'r Ddeddf i'w darllen fel a ganlyn—

“20. Cyfyngiadau ar derfynu contractau

(1) Ni chaiff landlord annedd sy'n ddarostyngedig i gontract meddiannaeth safonol roi hysbysiad o dan is-adran (1)(b) neu (4)(a) o adran 21 o Ddeddf Tai 1988 mewn perthynas â'r annedd ar adeg pan fo—

- (a) y landlord wedi ei gwneud yn ofynnol i daliad gwaharddedig gael ei wneud,
- (b) o ganlyniad i'r gofyniad, taliad gwaharddedig wedi ei wneud i'r landlord neu i unrhyw berson arall, ac
- (c) y taliad gwaharddedig heb ei ad-dalu.

(2) Ni chaiff landlord annedd sy'n ddarostyngedig i gontract meddiannaeth safonol roi hysbysiad o dan is-adran (1)(b) neu (4)(a) o adran 21 o Ddeddf Tai 1988 mewn perthynas â'r annedd ar adeg pan fo—

- (a) blaendal cadw a dalwyd mewn perthynas â'r contract meddiannaeth safonol heb ei ad-dalu, a
- (b) yr amgylchiadau yn golygu bod y methiant i ad-dalu'r blaendal yn gyfystyr â thorri gofynion Atodlen 2.

(3) Wrth benderfynu at ddibenion yr adran hon a yw taliad gwaharddedig neu flaendal cadw wedi ei ad-dalu, mae'r taliad neu'r blaendal i'w drin fel pe bai wedi ei ad-dalu i'r graddau (os o gwbl) y mae wedi ei gymhwyso tuag at y naill neu'r llall o'r canlynol, neu'r ddau ohonynt—

Application of Parts 1 to 5 and 7 of the Act in respect of assured shorthold tenancies

3. Parts 1 to 5 and 7 of the Act (including section 20, when read as provided for in this regulation) are to be treated as having effect in relation to assured shorthold tenancies, and for this purpose—

- (a) references in the Act to a standard occupation contract are to be read as references to an assured shorthold tenancy,
- (b) references in the Act to a contract-holder are to be read as references to a tenant under an assured shorthold tenancy,
- (c) references in the Act to a landlord are to be read as having the same meaning as do references to a landlord in the Housing Act 1988,
- (d) section 20 of the Act is to be read as follows—

“20. Restriction on terminating contracts

(1) A landlord of a dwelling subject to a standard occupation contract may not give a notice under subsection (1)(b) or (4)(a) of section 21 of the Housing Act 1988 in relation to the dwelling at a time when—

- (a) the landlord has required a prohibited payment to be made,
- (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
- (c) the prohibited payment has not been repaid.

(2) A landlord of a dwelling subject to a standard occupation contract may not give a notice under subsection (1)(b) or (4)(a) of section 21 of the Housing Act 1988 in relation to the dwelling at a time when—

- (a) a holding deposit paid in relation to the standard occupation contract has not been repaid, and
- (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2.

(3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—

- (a) taliad rhent o dan y denantiaeth;
- (b) taliad sy'n ofynnol fel sicrwydd mewn cysylltiad â'r denantiaeth.”, ac
- (e) mae Atodlen 3 o'r Ddeddf i'w thrin fel pe bai wedi ei hepgor.

- (a) a payment of rent under the tenancy;
- (b) a payment required as security in respect of the tenancy.”, and
- (e) Schedule 3 to the Act is to be treated as being omitted.

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru
18 Gorffennaf 2019

Minister for Housing and Local Government, one of
the Welsh Ministers
18 July 2019

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