

2006 No. 1077

HOUSING, ENGLAND

The Introductory Tenancies (Review of Decisions to Extend a Trial Period) (England) Regulations 2006

<i>Made</i> - - - -	<i>5th April 2006</i>
<i>Laid before Parliament</i>	<i>11th April 2006</i>
<i>Coming into force</i> - -	<i>3rd May 2006</i>

The First Secretary of State, in exercise of the powers conferred upon him by section 125B(3) and (4) of the Housing Act 1996 (a) hereby makes the following Regulations:

Citation, commencement, application and interpretation

- 1.—(1) These Regulations may be cited as the Introductory Tenancies (Review of Decisions to Extend a Trial Period) (England) Regulations 2006 and shall come into force on 3rd May 2006.
- (2) These Regulations apply in relation to dwelling houses in England only.
- (3) In these Regulations—
- (a) references to a tenant are to an introductory tenant; and
 - (b) references to a landlord are to a local housing authority or housing action trust which has elected to operate an introductory tenancy regime.

Right to review by way of oral hearing

2. A review under section 125B of the Housing Act 1996 of a decision to extend a trial period shall not be by way of an oral hearing unless before the end of the time permitted under subsection (1) of that section (time permitted for requesting review) the tenant informs the landlord that he wishes to have an oral hearing.

Notice of review

3. The landlord shall give to the tenant at least ten clear days' notice of—
- (a) the date of a review; and
 - (b) in the case of a review by way of oral hearing the time and place of the review.

(a) 1996 c.52; section 125B was inserted by section 179 of the Housing Act 2004 (2004 c.34). The functions of the Secretary of State under Part 5 of the Housing Act 1996 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by Article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) (to which there are amendments not relevant to these Regulations)) and section 267 of the Housing Act 2004.

Person to carry out review

4.—(1) The review shall be carried out by a person who was not involved in the decision to extend the trial period.

(2) Where the review is of a decision made by an officer of the landlord and is to be carried out by another officer, the officer reviewing the decision must occupy a position within the organisation of the landlord which is senior to that of the officer who made the decision.

Written representations at review

5.—(1) The tenant may make written representations to the landlord in connection with the review.

(2) Any written representations must be received by the landlord at least two clear days before the date of the review.

(3) The landlord must consider any written representations which are submitted by that date.

Procedure to be followed at review by way of oral hearing

6.—(1) Subject to the provisions of these Regulations, the procedure at review by way of oral hearing shall be determined by the person who carries it out.

(2) The tenant who has requested a hearing has the right —

- (a) to be heard and to be accompanied or to be represented by another person, whether that person is professionally qualified or not;
- (b) to call any person to give evidence; and
- (c) to put any question to any person who gives evidence at the hearing.

(3) Any representative that attends the hearing shall have the rights and powers which the tenant has under these Regulations.

Failure to attend review by way of oral hearing

7. Where the landlord has given notice in accordance with regulation 3 of a review by way of an oral hearing and neither the tenant nor the tenant's representative attends on the date, and at the time and place notified, the person carrying out the review may—

- (a) proceed with the hearing; or
- (b) make any other directions with a view to the conduct of the review that he considers appropriate, taking into account all relevant circumstances including any explanation offered for the absence.

Postponement of review by way of oral hearing

8.—(1) Where the landlord has given notice in accordance with regulation 3 of a review by way of an oral hearing and the tenant requests a postponement, the landlord may grant or refuse the request as he sees fit.

(2) If the landlord agrees to postpone the hearing, the landlord shall give reasonable notice to the tenant of the time, date and place of the reconvened hearing.

Adjournment of review by way of oral hearing

9.—(1) The person carrying out a review by way of an oral hearing may adjourn it at any time on his own initiative, at the request of the tenant, his representative or the landlord.

(2) If such a review is being carried out by more than one person and any of those persons are absent, the hearing shall be adjourned, unless the tenant or his representative gives his consent to the continuation of the hearing.

(3) If such a review is adjourned part-heard and the person conducting out the reconvened hearing is not the person who carried out the previously adjourned hearing, then a complete rehearing shall be conducted out unless the tenant or his representative gives his consent to the continuation of the hearing.

(4) If such a review is adjourned, the tenant shall be given reasonable notice of the date, time, and place of the reconvened hearing.

Signed by authority of the First Secretary of State

5th April 2006

Kay Andrews
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

Chapter 1 of Part 5 of the Housing Act 1996 establishes a regime of introductory tenancies which local housing authorities and housing action trusts may elect to operate. Where such a regime operates the tenancy is an “introductory tenancy” until the end of the trial period which is for a period of one year.

Section 179 of the Housing Act 2004 amends that Chapter to allow local housing authorities and housing action trusts which have elected to operate an introductory tenancy regime to extend the trial period in individual cases for a period of six months.

If a landlord wishes to extend an introductory tenancy, he must serve the tenant with a notice of extension setting out the reasons for his decision and informing the tenant of his right to request a review of the landlord’s decision and the time in which such a request must be made. These Regulations make provision in respect of the procedures to be followed in such a review.

Regulation 2 provides that the tenant is entitled to request an oral hearing and sets out how this right is to be exercised.

Regulation 3 requires the landlord to give the tenant notice of the review.

Regulation 4 provides that the review must be carried out by a person who was not involved in the original decision. If the person carrying out the review and the person who made the decision to extend the trial period are both officers of the landlord, the person carrying out the review must hold a position in the landlord’s organisation senior to the person who made the original decision.

Regulation 5 sets out the requirements in relation to written representations at the review.

Regulations 6 to 9 set out the procedures to be followed during a review by way of an oral hearing.

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