



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 1228 (Cy.86)

2005 No. 1228 (W.86)

TAI, CYMRU

HOUSING, WALES

**Rheoliadau Tenantiaethau Isradd
(Adolygu Penderfyniadau)
(Cymru) 2005**

**The Demoted Tenancies (Review
of Decisions) (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)

Diwygiodd adran 14 o Ddeddf Ymddygiad Gwrthgymdeithasol 2003 Ran 4 o Ddeddf Tai 1985 (p.68) er mwyn caniatáu i denantiaeth ddiogel awdurdod tai lleol, ymddiriedolaeth gweithredu tai neu landlord cymdeithasol cofrestredig gael eu dirwyn i ben a'u disodli gan denantiaeth isradd lai diogel drwy gyfrwng gorchymyn israddio a wnaethpwyd gan lys sirol. Mewnosododd Atodlen 1 i Ddeddf 2003 ddarpariaethau pellach sy'n ymwneud â thenantiaethau isradd fel Pennod 1A newydd o Ran 5 o Ddeddf Tai 1996.

Section 14 of the Anti-social Behaviour Act 2003 amended Part 4 of the Housing Act 1985 (c. 68) to allow a secure tenancy of a local housing authority, a housing action trust or a registered social landlord to be brought to an end and replaced with a less secure demoted tenancy by a demotion order made by a county court. Schedule 1 to the 2003 Act inserted further provisions regarding demoted tenancies as a new Chapter 1A of Part 5 of the Housing Act 1996.

Os yw landlord yn dymuno dod â thenantiaeth isradd i ben, rhaid iddo gyflwyno hysbysiad i'r tenant. Rhaid i'r hysbysiad hwnnw ddatgan bod y landlord wedi penderfynu gwneud cais i'r llys am orchymyn meddiannu sy'n nodi'r rhesymau dros y penderfyniad hwnnw ac sy'n rhoi gwybod i'r tenant am ei hawl i wneud cais am gael adolygiad o'r penderfyniad. Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch y weithdrefn sydd i'w dilyn mewn adolygiad o'r fath.

If a landlord wishes to end a demoted tenancy it must serve the tenant with a notice stating that the landlord has decided to apply to the court for an order for possession, setting out the reasons for that decision and informing the tenant of the tenant's right to request a review of the decision. These Regulations make provision about the procedure to be followed in such a review.

Mae rheoliad 2 yn darparu bod rhaid i adolygiad gael ei gynnal gan berson nad oedd ynghlwm wrth y penderfyniad gwreiddiol. Os gwnaethpwyd y penderfyniad gwreiddiol gan swyddog, yna ni chaniateir i unrhyw adolygiad o'r penderfyniad hwnnw gael ei gynnal gan neb ond swyddog sy'n uwch ei swydd o fewn sefydliad y landlord na'r swyddog a wnaeth y penderfyniad gwreiddiol.

Regulation 2 provides that a review must be undertaken by a person who was not involved in the original decision. If the original decision was made by an officer then any review of that decision by another officer may only be carried out by an officer occupying a more senior position within the landlord's organisation than the officer who made the original decision.

Mae rheoliad 3 yn ei gwneud yn ofynnol i'r landlord roi hysbysiad i'r tenant am ddyddiad yr adolygiad.

Mae rheoliad 4 yn galluogi'r tenant i gael gwrandawriad llafar o dan rai amgylchiadau ac mae'n esbonio sut y gellir arfer yr hawl honno.

Mae rheoliadau 5 i 9 yn nodi manylion y weithdrefn adolygu.

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

Regulation 4 enables the tenant to obtain an oral hearing in certain circumstances and explains how that right may be exercised.

Regulations 5 to 9 set out the details of the review procedure.

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(Cymru) 2005****The Demoted Tenancies (Review
of Decisions) (Wales) Regulations
2005***Wedi'u gwneud* 26 Ebrill 2005*Made* 26 April 2005*Yn dod i rym* 30 Ebrill 2005*Coming into force* 30 April 2005

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 143F(3) a (4) o Ddeddf Tai 1996(1), yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of the powers conferred upon it by section 143F(3) and (4) of the Housing Act 1996(1), makes the following Regulations:

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

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Tenantiaethau Isradd (Adolygu Penderfyniadau) (Cymru) 2005 a deuant i rym ar 30 Ebrill 2005.

1.-(1) These Regulations are called the Demoted Tenants (Review of Decisions) (Wales) Regulations 2005 and come into force on 30 April 2005.

(2) Mae'r Rheoliadau hyn yn gymwys o ran tai annedd yng Nghymru.

(2) These Regulations apply in relation to dwelling-houses in Wales.

Personau sy'n cael cynnal adolygiadau**Persons who may carry out reviews**

2.-(1) Rhaid i adolygiad o dan adran 143F o Ddeddf Tai 1996 o benderfyniad i geisio gorchymyn meddiannu tŷ annedd a osodir o dan denantiaeth isradd ("yr adolygiad") gael ei gynnal gan berson nad oedd ynghlwm wrth y penderfyniad hwnnw.

2.-(1) A review under section 143F of the Housing Act 1996 of a decision to seek an order for possession of a dwelling-house let under a demoted tenancy ("the review") must be carried out by a person who was not involved in that decision.

(2) Pan fo'r adolygiad yn adolygiad o benderfyniad a wnaethpwyd gan un o swyddogion y landlord ac y mae'r adolygiad i'w gynnal gan swyddog arall, rhaid i'r swyddog sy'n adolygu'r penderfyniad fod mewn swydd uwch o fewn sefydliad y landlord.

(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 more senior position within the organisation of the landlord.

Hysbysiad am adolygiad**Notice of review**

3. Rhaid i'r landlord o dan y denantiaeth isradd hybysu'r tenant nid llai na phum niwrnod clir cyn dyddiad yr adolygiad.

3. The landlord under the demoted tenancy must give the tenant not less than five clear days' notice of the date of the review.

(1) 1996 p.52; mewnosodwyd adran 143F gan adran 14 o Atodlen 1 i Ddeddf Ymddygiad Gwrthgymdeithasol 2003. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan Ran 5 o Ddeddf Tai 1996, i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (OS 1999/672, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn) ac adran 17 o Ddeddf Ymddygiad Gwrthgymdeithasol 2003.

(1) 1996 c.52; section 143F was inserted by section 14 of and Schedule 1 to the Anti-social Behaviour Act 2003. 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 17 of the Anti-social Behaviour Act 2003.

Hawl i wrandawriad llafar

4.-(1) Pan fo'r tenant yn gwneud cais am hynny, rhaid i'r adolygiad fod yn wrandawriad llafar.

(2) Rhaid gwneud unrhyw gais o'r fath i'r landlord cyn diwedd y cyfnod a grybwyllir yn is-adran (1) i adran 143F o Ddeddf Tai 1996 (yr amser a ganiateir ar gyfer gwneud cais am adolygiad).

(3) Os yw'r tenant yn gwneud cais o'r fath, rhaid i'r landlord, pan hysbysa'r tenant am ddyddiad yr adolygiad yn unol â rheoliad 3, roi gwybod hefyd i'r tenant am yr amser a'r lle y gwrandawrir yr adolygiad.

Sylwadau ysgrifenedig

5. P'un a yw'r adolygiad i fod ar ffurf gwrandawriad llafar ai peidio -

- (a) caiff y tenant wneud sylwadau ysgrifenedig i'r landlord am yr adolygiad;
- (b) rhaid i'r sylwadau hynny ddod i law'r landlord nid llai na dau ddiwrnod clir cyn dyddiad yr adolygiad; ac
- (c) rhaid i'r landlord ystyried unrhyw sylwadau a gaiff erbyn y dyddiad hwnnw.

Adolygiad ar ffurf gwrandawriad llafar

6.-(1) Pan fo'r adolygiad i fod drwy gyfrwng gwrandawriad llafar, mae gan y tenant yr hawl i gael ei wrando ac i gael person arall gydag ef neu i gael ei gynrychioli gan berson arall (p'un a yw'r person hwnnw yn berson â chymwysterau proffesiynol ai peidio).

(2) Caiff y tenant neu gynrychiolydd y tenant -

- (a) galw personau i roi tystiolaeth yn y gwrandawriad;
- (b) holi unrhyw berson sy'n rhoi tystiolaeth yn y gwrandawriad.

(3) Yn ddarostyngedig i'r Rheoliadau hyn, mae'r weithdrefn sy'n gysylltiedig ag adolygiad drwy gyfrwng gwrandawriad llafar i'w phenderfynu gan y person sy'n cynnal yr adolygiad.

Absenoldeb tenant a chynrychiolydd o wrandawriad

7.-(1) Mae'r paragraff hwn yn gymwys pan fo tenant wedi'i hysbysu yn unol â rheoliadau 3 a 4(3) ac nid yw'r tenant na chynrychiolydd y tenant yn ymddangos yn y gwrandawriad.

(2) Pan fo paragraff (1) yn gymwys, caiff y person sy'n cynnal yr adolygiad, o ystyried yr holl amgylchiadau -

Right to an oral hearing

4.-(1) Where the tenant so requests, the review must be by way of an oral hearing.

(2) Any such request must be made to the landlord before the end of the period mentioned in subsection (1) of section 143F of the Housing Act 1996 (time permitted for requesting a review).

(3) If the tenant makes such a request the landlord must, when giving the tenant notice of the date of the review in accordance with regulation 3, also inform the tenant of the time and place at which the review will be heard.

Written representations

5. Whether or not the review is to be by way of an oral hearing -

- (a) the tenant may make written representations to the landlord in connection with the review;
- (b) such representations must be received by the landlord not less than two clear days before the date of the review; and
- (c) the landlord must consider any such representations which are received by that date.

Review by way of an oral hearing

6.-(1) Where the review is to be by way of an oral hearing, the tenant has the right to be heard and to be accompanied or to be represented by another person (whether or not that person is professionally qualified).

(2) The tenant or the tenant's representative may -

- (a) call persons to give evidence at the hearing;
- (b) put questions to any person who gives evidence at the hearing.

(3) Subject to these Regulations, the procedure in connection with a review by way of an oral hearing is to be determined by the person carrying out the review.

Absence of tenant and representative from hearing

7.-(1) This paragraph applies where notice has been given to the tenant in accordance with regulations 3 and 4(3) and neither the tenant nor the tenant's representative appears at the hearing.

(2) Where paragraph (1) applies, the person carrying out the review may, having regard to all the circumstances -

- (a) bwrw ymlaen â'r gwrandawriad; neu
- (b) rhoi'r cyfarwyddiadau ynghylch cynnal yr adolygiad y mae'r person hwnnw yn eu barnu'n briodol.

Gohirio gwrandawriad

8.-(1) Caiff y tenant wneud cais i'r landlord i ohirio gwrandawriad a hysbyswyd yn unol â rheoliadau 3 a 4(3) a chaiff y landlord ildio i'r cais neu ei wrthod.

(2) Os gohirir y gwrandawriad, rhaid i'r landlord roi hysbysiad rhesymol i'r tenant am ddyddiad, amser a lle'r gwrandawriad gohiriedig.

Torri yn ystod gwrandawriad

9.-(1) Caiff y person sy'n cynnal yr adolygiad dorri ar y gwrandawriad ar unrhyw adeg, naill ai o ben a phastwn y person ei hun neu ar gais y tenant, cynrychiolydd y tenant neu'r landlord.

(2) Pan fo rhagor nag un person yn cynnal yr adolygiad drwy gyfrwng gwrandawriad llafar, rhaid torri ar y gwrandawriad bob tro y bydd unrhyw un o'r personau hynny yn absennol, oni bai bod y tenant neu gynrychiolydd y tenant yn cytuno fel arall.

(3) Rhaid i'r landlord roi hysbysiad rhesymol i'r tenant am ddyddiad, amser a lle'r gwrandawriad y torrwyd arno.

(4) Os nad yr un person a oedd yn cynnal yr adolygiad yn y gwrandawriad cynharach yw'r person sy'n cynnal yr adolygiad yn y gwrandawriad y torrwyd arno, rhaid i'r adolygiad fynd rhagddo drwy ailwrando'r achos o'r newydd oni bai bod y tenant neu gynrychiolydd y tenant yn cytuno fel arall.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998.(1)

26 Ebrill 2005

Llywydd y Cynulliad Cenedlaethol

- (a) proceed with the hearing; or
- (b) give such directions with a view to the conduct of the review as that person considers appropriate.

Postponement of hearing

8.-(1) The tenant may request the landlord to postpone a hearing of which notice has been given in accordance with regulations 3 and 4(3) and the landlord may grant or refuse the request.

(2) If the hearing is postponed the landlord must give the tenant reasonable notice of the date, time and place of the postponed hearing.

Adjournment of hearing

9.-(1) A hearing may be adjourned by the person carrying out the review at any time, either on that person's own initiative or at the request of the tenant, the tenant's representative or the landlord.

(2) Where more than one person is carrying out the review by way of an oral hearing, the hearing must be adjourned on each occasion on which any of those persons is absent, unless the tenant or the tenant's representative agrees otherwise.

(3) The landlord must give the tenant reasonable notice of the date, time and place of the adjourned hearing.

(4) If the person carrying out the review at the adjourned hearing is not the same person as the person who was carrying out the review at the earlier hearing, the review must proceed by way of a complete rehearing of the case unless the tenant or the tenant's representative agrees otherwise.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(1)

26 April 2005

The Presiding Officer of the National Assembly

(1) 1988 p.38

(1) 1988 c.38

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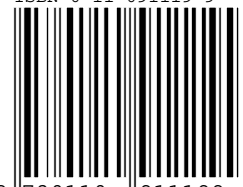
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