WELSH STATUTORY INSTRUMENTS

2012 No. 531 (W.83)

HOUSING, WALES

The Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012

Made - - - -	*23 February 2012*
Laid before the National Assembly for Wales - -	*28 February 2012*
Coming into force - -	*21 March 2012*

The Welsh Ministers, in exercise of the powers vested in them(**1**) by section 250(2)(a) of, and Schedule 13 to, the Housing Act 2004(**2**) make the following Regulations.

In accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(**3**) the Welsh Ministers have consulted with the Administrative Justice and Tribunals Council.

PART 1

GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012. They come into force on 21 March 2012.

(2) These Regulations apply to proceedings of residential property tribunals for determining applications in respect of premises in Wales.

Interpretation

2. In these Regulations—

"the 2004 Act" ("*Deddf 2004*") means the Housing Act 2004;

"the 1985 Act" ("*Deddf 1985*") means the Housing Act 1985(**4**);

(**1**) The functions conferred on the National Assembly for Wales by the Housing Act 2004 are exercisable by the Welsh Ministers by virtue of section 162 of and paragraph 30(2)(c) of Schedule 11 to the Government of Wales Act 2006 (c. 32)
(**2**) 2004 c. 34.
(**3**) 2007 c. 15.
(**4**) 1985 c. 68.

"the 1983 Act" ("*Deddf 1983*") means the Mobile Homes Act 1983(**5**);

"application" ("*cais*") means an application or appeal to a tribunal under—

(a) the 2004 Act;

(b) Part 9 of the 1985 Act; or

(c) the 1983 Act (including any application made following the transfer of any matter arising from an application to the court made under that Act),

and "applicant" ("*ceisydd*") bears a corresponding meaning;

"case management conference" ("*cynhadledd rheoli achos*") means a pre-trial review or any other meeting held by a tribunal for the purpose of managing the proceedings in respect of an application;

"dwelling" ("*annedd*") has the same meaning as in section 322 of the 1985 Act;

"dwelling-house" ("*tŷ annedd*") has the same meaning as in section 183 of the 1985 Act;

"EDMO" ("*GRhAG*") means an empty dwelling management order and it has the same meaning as in section 132 of the 2004 Act;

"IMO authorisation application" ("*cais awdurdodi GRhI*") means an application for authorisation to make an interim management order under section 102(4) or (7) of the 2004 Act(**6**);

"interested person" ("*person â buddiant*") means in relation to a particular application—

(a) a person other than the applicant who would have been entitled under the 2004 Act or the 1985 Act (as the case may be) to make the application;

(b) a person to whom notice of the application must be given by the applicant in accordance with the following provisions of the 2004 Act—

(i) paragraph 11(2) of Schedule 1; or

(ii) paragraph 14(2) of Schedule 3;

(c) a person to whom the tribunal must give the opportunity of being heard in accordance with the following provisions—

(i) section 34(4) of the 2004 Act; or

(ii) section 317(2) of the 1985 Act;

(d) except in relation to an application made under the 1983 Act, the Local Housing Authority, where it is not a party to the application;

(e) the person to whom the occupier wants to sell or gift a mobile home under paragraphs 8 or 9 of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act; and

(f) a qualifying residents' association;

"LHA" ("*ATLl*") means a local housing authority(**7**);

"mobile home" ("*cartref symudol*") has the same meaning as in section 5(1) of the 1983 Act;

(**5**) The 1983 Act extends to England and Wales and Scotland and has been substantially amended in relation to England and Wales by sections 206-208 of the Housing Act 2004; and in relation to Wales by the Mobile Homes Act 1983 (Amendment of Schedule 1) (Wales) Order 2007 (S.I.2007/3151) and the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (Wales) Order 2012 (S.I. 2012/899 (W.119)) and in relation to England by the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals) (England) Order 2011 (S.I. 2011/1005), the Housing and Regeneration Act 2008 (Consequential Amendments to the Mobile Homes Act 1983) Order 2011 (S.I. 2011/1004) and the Mobile Homes Act 1983 (Amendment of Schedule 1) (England) Order 2006 (S.I. 2006/1755) and the Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011 (S.I. 2011/1003).

(**6**) For the meaning of "interim management order" *see* section 101(3) of the 2004 Act.

(**7**) For the meaning of "local housing authority" *see* section 261(4) of the 2004 Act.

"occupier" ("*meddiannydd*") means, in respect of an application made under the 1983 Act, the person entitled to station the mobile home on land forming part of the protected site and to occupy the mobile home as that person's only or main residence under an agreement to which the 1983 Act applies;

"pitch" ("*llain*") has the same meaning as is given in Chapter 1 of Part 1 of Schedule 1 to the 1983 Act;

"premises" ("*mangre*") means—

(a) in any application except an application made under the 1983 Act, the dwelling or building to which the application relates; and

(b) in any application made under the 1983 Act, the pitch, protected site or mobile home to which the application relates;

"protected site" ("*safle a ddiogelir*") has the same meaning as in section 5(1) of the 1983 Act;

"qualifying residents' association" ("*cymdeithas preswylwyr gymwys*") means an association that meets the requirements set out in Part 1 of Schedule 1 to the 1983 Act;

"the respondent" ("*yr ymatebydd*") means, in respect of each application to which a paragraph of the Schedule to these Regulations applies, the person or persons, or one of the persons, specified in sub-paragraph (3) of that paragraph;

"site owner" ("*perchennog safle*") in relation to a protected site, has the same meaning as "owner" in section 5(1) of the 1983 Act;

"statement of reasons" ("*datganiad o resymau*") means a statement of reasons prepared by the LHA under section 8 of the 2004 Act (reasons for decision to take enforcement action); and

"tribunal" ("*tribiwnlys*") means a residential property tribunal(**8**), and "the tribunal" ("*y tribiwnlys*") in relation to an application means the tribunal by which the application is to be determined.

PART 2

RESIDENTIAL PROPERTY TRIBUNAL PROCEDURES

The overriding objective and parties' obligation to co-operate with the tribunal

3.—(1) When a tribunal—

(a) exercises any power under these Regulations; or

(b) interprets any regulation,

it must seek to give effect to the overriding objective of dealing fairly and justly with applications which it is to determine.

(2) Dealing with an application fairly and justly includes—

(a) dealing with it in ways which are proportionate to the complexity of the issues and to the resources of the parties;

(b) ensuring, so far as practicable, that the parties are on an equal footing procedurally and are able to participate fully in the proceedings;

(c) assisting any party in the presentation of the party's case without advocating the course the party should take;

(**8**) By section 229 of the Housing Act 2004 (c. 34) any jurisdiction of a residential property tribunal by or under any enactment is exercisable by a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (c. 42).

(d) using the tribunal's special expertise effectively; and

(e) avoiding delay, so far as is compatible with proper consideration of the issues.

(3) Parties must—

(a) help the tribunal to further the overriding objective; and

(b) co-operate with the tribunal generally.

Request for extension of time to make an application

4.—(1) This regulation applies where a person makes a request to a tribunal for permission to make an application after the end of the period stipulated in the 2004 Act or the 1983 Act as the period within which the application must be made.

(2) A request to which this regulation applies must—

(a) be in writing;

(b) give reasons for the failure to make the application before the end of that period and for any delay since then;

(c) include a statement that the person making the request believes that the facts stated in it are true; and

(d) be dated and signed.

(3) Where a request mentioned in paragraph (1) is made, the applicant must at the same time send the completed application to which the request relates to the tribunal.

(4) A single qualified member of the panel(**9**) may grant or refuse a request made under paragraph (1).

Limit on the number of pitches, mobile homes or references on a single application under the 1983 Act

5.—(1) Where an application to a tribunal to determine any question arising under the 1983 Act relates to more than one pitch or mobile home, the application may refer to only one provision of the 1983 Act.

(2) No application to a tribunal to determine any question arising under the 1983 Act may relate to more than 20 pitches or mobile homes.

Particulars of application

6.—(1) An application must be in writing and must contain the following particulars—

(a) the name and address of the applicant;

(b) the name and address of the respondent where known to the applicant or, where not known, a description of the respondent's connection with the premises;

(c) the address of the premises;

(d) the applicant's connection with the premises;

(e) the applicant's reasons for making the application including the remedy sought;

(f) where known to the applicant, the name and address of any interested person;

(g) a statement that the applicant believes that the facts stated in the application are true;

(h) be dated and signed; and

(**9**) For the meaning of "single qualified member of the panel" *see* paragraph 6(2) to (4) of Schedule 13 to the Housing Act 2004.

(i) in respect of each application to which a paragraph in the Schedule to these Regulations applies, the documents specified in sub-paragraph (2) of that paragraph.

(2) Any of the requirements contained in paragraph (1) may be dispensed with or relaxed if the tribunal is satisfied that—

(a) the particulars and documents contained in an application are sufficient to establish that the application is one which may be made to a tribunal; and

(b) no prejudice will be, or is likely to be, caused to any party to the application as a result of such dispensation or relaxation.

(3) A single qualified member of the panel may exercise the power conferred by paragraph (2).

Applications following transfer of application made under the 1983 Act from the court to a tribunal

7.—(1) Where a court transfers to a tribunal any matter arising from an application to the court made under the 1983 Act, the applicant must, in addition to complying with the requirements contained in regulation 6(1), include in the application a copy of the court order by which the matter was transferred.

(2) The tribunal may dispense with or relax any of the requirements contained in paragraph (1) if the tribunal is satisfied that it has received sufficient particulars and documents from the court to establish that the application is one which may be made to a tribunal.

(3) A single qualified member of the panel may exercise the power conferred by paragraph (2).

Acknowledgement and notification of application by tribunal

8.—(1) As soon as practicable after receiving the application, the tribunal must—

(a) send an acknowledgement of receipt to the applicant; and

(b) send a copy of the application and of each document accompanying it to the respondent.

(2) Except in a case to which regulation 10 or 11 applies, the tribunal must also send to the respondent a notice—

(a) specifying the date by which the respondent must send the reply mentioned in regulation 9;

(b) specifying that any response must include—

(i) a statement as to whether or not the respondent intends to oppose the application;

(ii) where not already included in the application, the name and address of each interested person known to the respondent; and

(iii) the address to which documents should be sent for the purposes of the proceedings; and

(c) warning the respondent that if the respondent does not respond by the date specified, and with the information specified the tribunal may—

(i) assume that the respondent does not intend to oppose the application; and

(ii) proceed with the matter in any way it considers to be reasonable in the circumstances of the case.

(3) The date specified in the notice referred to in paragraph (2) must not be less than 14 days after the date specified in the notice as the date on which it was made.