WELSH STATUTORY INSTRUMENTS

2009 No. 369 (W.38)

HOUSING, WALES

The Local Authorities (Charges for Property Searches)(Wales) Regulations 2009

Made - - - - 24 February 2009
Laid before the National Assembly for Wales - - 21 January 2009

Coming into force in accordance with regulation 1(2)

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 150 and 152 of the Local Government and Housing Act 1989(**1**) and now vested in them(**2**), and in accordance with section 152(6) having consulted such representatives of local government as appear to be appropriate, make the following Regulations:

In accordance with section 150(6) of that Act(**3**), a draft of this instrument was laid before and approved by the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Local Authorities (Charges for Property Searches) (Wales) Regulations 2009.

(2) These Regulations come into force seven days after the day on which they are made.

(3) These Regulations apply only to local authorities in Wales.

Interpretation

2.—(1) In these Regulations "access to property records" ("*mynediad i gofnodion eiddo*") means access to property records granted by a local authority in any of the following ways—

(**1**) 1989 c. 42.

(**2**) The functions of the Secretary of State under sections 150 and 152 of the Local Government and Housing Act 1989 in relation to Wales were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672: Article 2, Schedule 1). The functions of the National Assembly for Wales were vested in the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**3**) Section 150(6) of the 1989 Act requires a draft of the Regulations to be laid before and approved by Parliament. In respect of Wales, the National Assembly for Wales has been substituted for Parliament in this requirement. *See* section 162 of, and paragraph 34 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(a) allowing a person to inspect or search property records at a place designated by the authority for doing so;

(b) allowing the making of, or providing copies of, property records; or

(c) the electronic transmission of property records or copies of such records,

and in these Regulations the expression "access to property records" is to be construed accordingly.

(2) In these Regulations a reference to a local authority "answering enquiries about a property" ("*ateb ymholiadau ynghylch eiddo*") means—

(a) the answering by the authority of any specific oral or written enquiries from a person about a property or about property records; or

(b) the carrying out by the authority of any activities for the purposes of answering such enquiries.

(3) In these Regulations—

"financial year" ("*blwyddyn ariannol*") means a period of twelve consecutive months ending with 31 March;

"free statutory information" ("*gwybodaeth statudol am ddim*") means information required to be provided by a local authority under an enactment where that enactment expressly—

(a) prohibits a local authority from making a charge for doing so; or

(b) requires that the authority provides the information free of charge;

"local authority" ("*awdurdod lleol*") means a county council or county borough council;

"internal transaction" ("*trafodiad mewnol*") means the granting of access to property records by one department of a local authority to another department of that authority;

"property" ("*eiddo*") means a specified building or structure or specified land in relation to which property records are held by a local authority;

"property records" ("*cofnodion eiddo*")—

(a) include documents, registers, files and archives (held in any form by the local authority) which relate to a property;

(b) include information about a property which is derived from such documents, registers, files and archives; but

(c) exclude the local land charges register kept under section 3(2) of the Local Land Charges Act 1975(**4**);

"request" ("*cais*") includes a written, oral, electronic or automated request; and

"unit charge" ("*ffi fesul uned*") means the charge described in regulation 6(2).

Revocation and transitional provision

3.—(1) Subject to paragraph (3), the Local Authorities (Charges for Land Searches) Regulations 1994(**5**) are revoked in relation to Wales.

(2) These Regulations apply where a local authority receives—

(a) a request for access to property records; or

(b) enquiries about a property,

on or after the date these Regulations come into force.

(**4**) 1975 c. 76.
(**5**) S.I. 1994/1885.

(3) The Local Authorities (Charges for Land Searches) Regulations 1994 continue to apply where a local authority receives—

(a) a request for access to property records; or

(b) enquiries about a property,

before the date these Regulations come into force.

Scope of regulations 5 and 8

4.—(1) Subject to paragraphs (2) and (3), regulations 5 and 8 apply in respect of a local authority —

(a) granting access to property records; or

(b) answering enquiries about a property,

whether it does so under a power or duty created or imposed by any enactment.

(2) Regulations 5 and 8 do not apply—

(a) to anything in respect of which a local authority may or must impose a charge apart from these Regulations; or

(b) in respect of access to free statutory information, except to the extent that a local authority is providing a service which is supplementary or incidental to that described in the enactment in question.

(3) Regulations 5 and 8 do not apply in respect of anything done in the course of exercising an excepted function(**6**).

Charges for access to property records

5.—(1) This regulation applies where a local authority grants access to property records to a person (including to another local authority).

(2) The authority may impose a charge on that person for granting such access if it makes or proposes to make an internal recharge (analogous to a charge) for internal transactions.

(3) The charges and recharges made under this regulation must be calculated in accordance with regulations 6 and 7.

Calculation of charges for access to property records

6.—(1) This regulation and regulation 7 make provision for the charges and internal recharges made under regulation 5(2) to be no more than the costs to the local authority of granting access to property records.

(2) Subject to paragraphs (3) and (4), each charge or recharge (the "unit charge") for access to property records made during a financial year must not exceed an amount calculated by—

(a) dividing a reasonable estimate of the likely total costs to the local authority in granting access to property records (and performing internal transactions) during the financial year; by

(b) a reasonable estimate of the number of requests for access to property records likely to be received (from another person or different departments of the authority) over that same financial year.

(3) A local authority must take all reasonable steps to ensure that, over the course of any period of three consecutive financial years, the total income (including notional income from internal

(**6**) *See* section 152 of the Local Government and Housing Act 1989 for the definition of "excepted function".