WELSH STATUTORY INSTRUMENTS

2006 No. 1715 (W.177)

HOUSING, WALES

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006

Made - - - -	*27 June 2006*
Coming into force - -	*30 June 2006*

The National Assembly for Wales, in exercise of the powers conferred on it by sections 59(2), (3) and (4), 60(6), 63(5) and (6), 65(3) and (4), 83(2), (3) and (4), 84(6), 87(5) and (6), 232(3) and (7), 250(2), 258(2)(b), (5) and (6), 259(2)(c) of, and paragraphs 3 and 6(1)(c) of Schedule 14 to, the Housing Act 2004(**1**), makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006 and they come into force on 30 June 2006.

(2) These Regulations apply in relation to any HMO(**2**) in Wales, other than a converted block of flats to which section 257 of the Act applies, and to any house(**3**) in Wales to which Part 3 of the Act applies(**4**).

Interpretation

2. In these Regulations "the Act" ("*y Ddeddf*") means the Housing Act 2004.

Persons to be regarded as forming a single household for the purposes of section 254 of the Act: employees

3.—(1) Where—

(**1**) 2004 c. 34. The powers conferred by sections 59(2), (3) and (4), 60(6), 63(5) and (6), 65(3) and (4), 83(2), (3) and (4), 84(6), 87(5) and (6), 232(3) and (7), 250(2), 258(2)(b), (5) and (6), 259(2)(c) of, and paragraphs 3 and 6(1)(c) of Schedule 14 of the Act are exercisable, as respects Wales, by the National Assembly for Wales and, as respects England, by the Secretary of State. *See* the definition of "appropriate national authority" in section 261(1).
(**2**) For the meaning of "HMO" *see* sections 77 and 254 to 259 of the Act.
(**3**) For the meaning of "house" ("*tŷ*") *see* section 99 of the Act.
(**4**) *See* section 79(2) of the Act.

(a) a person ("person A") occupies living accommodation in a building or part of a building; and

(b) another person ("person B") and any member of person B's family living with person B occupy living accommodation in the same building or part,

those persons are only to be regarded as forming a single household for the purposes of section 254 of the Act if their circumstances are those described in paragraph (2).

(2) The circumstances are that—

(a) person A carries out work or performs a service of an exclusively domestic nature for person B or such a member of person B's family;

(b) person A's living accommodation is supplied by person B or by such a member of person B's family as part of the consideration for carrying out the work or performing the service; and

(c) person A does not pay any rent or other consideration in respect of the living accommodation (other than carrying out the work or performance of the service).

(3) Work or a service usually carried out or performed by any of the following is to be regarded as work or service of a domestic nature for the purpose of paragraph (2)(a)—

(a) au pair;

(b) nanny;

(c) nurse;

(d) carer;

(e) governess;

(f) servant, including maid, butler, cook or cleaner;

(g) chauffeur;

(h) gardener;

(i) secretary; or

(j) personal assistant.

(4) Where person A and person B are to be regarded as forming a single household under paragraph (1) any member of person A's family occupying the living accommodation with person A is to be regarded as forming a single household with person A, person B and any member of person B's family living with person B for the purpose of section 254 of the Act.

Other persons to be regarded as forming a single household for the purposes of section 254 of the Act

4.—(1) Where a person receiving care and that person's carer occupy living accommodation in the same building or part of a building, they are to be regarded as forming a single household for the purposes of section 254 of the Act if the carer provides, and the person receiving care receives, care under an adult placement agreement in accordance with the Adult Placement Schemes (Wales) Regulations 2004(**5**).

(2) Where a person and that person's foster parent occupy living accommodation in the same building or part of a building, they are to be regarded as forming a single household for the purposes of section 254 of the Act if that person is placed with the foster parent under the provisions of the Fostering Services (Wales) Regulations 2003(**6**).

(**5**) S.I.2004/1756 (W.188).
(**6**) S.I. 2003/237 (W.35).

(3) The term "adult placement agreement" ("*cytundeb lleoli oedolion*") has the meaning given to that expression in Regulation 2 of the Regulations referred to in paragraph (1).

Persons treated as occupying premises as their only or main residence for the purposes of section 254 of the Act

5.—(1) A person is to be treated as occupying a building or part of a building as that person's only or main residence for the purposes of section 254 of the Act if the person is—

(a) a migrant worker or a seasonal worker—

(i) whose occupation of the building or part is made partly in consideration of the person's employment within the United Kingdom, whether or not other charges are payable in respect of that occupation; and

(ii) where the building or part is provided by, or on behalf of, the person's employer or an agent or employee of the person's employer; or

(b) an asylum seeker or a dependent of an asylum seeker who has been provided with accommodation under section 95 of the Immigration and Asylum Act 1999(**7**) and which is funded partly or wholly by the National Asylum Support Service(**8**).

(2) In this regulation—

(a) "a migrant worker" ("*gweithiwr mudol*") is—

(i) a person who is a national of a member State of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom under Council Regulation (EEC) No 1612/68 on Freedom of Movement for Workers Within the Community(**9**), as extended by the EEA Agreement or the Switzerland Agreement; or

(ii) any person who has a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not a British citizen, for entry into the United Kingdom for the purpose of taking employment;

(b) "EEA Agreement" ("*Cytundeb AEE*") means the agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

(c) "Switzerland Agreement" ("*Cytundeb y Swisdir*") means the agreement between the European Community and its Member States of the one part and the Swiss Confederation of the other on the Free Movement of Persons signed at Luxembourg on 21 June 1999 and which came into force on 1 June 2002;

(d) "seasonal worker" ("*gweithiwr tymhorol*") means a person who carries out for an employer or undertakes employment of a seasonal character—

(i) the nature of which depends on the cycle of the seasons and recurs automatically each year; and

(ii) the duration of which does not exceed eight months;

(e) "immigration rules" ("*rheolau mewnfudo*") means the rules for the time being laid down as mentioned in section 3(2) of the Immigration Act 1971(**10**); and

(f) "asylum seeker" ("*ceisiwr lloches*") has the meaning given to that expression in section 94 of the Immigration and Asylum Act 1999.

(**7**) 1999 c. 33.
(**8**) The National Asylum Support Service is a department within the Home Office.
(**9**) O.J.L.257, 19 October 1968, as amended by EEC 312/76 (O.J. L.39, 14 February 1976) and EEC 2434/92 (O.J.L.245, 26 August 1992).
(**10**) 1971 c. 77.

Buildings that are not HMOs for the purposes of the Act (excluding Part 1)

6.—(1) A building is of a description specified for the purposes of paragraph 3 of Schedule 14 to the Act (buildings regulated otherwise than under the Act which are not HMOs for purposes of the Act (excluding Part 1)) where its occupation is regulated by or under any of the enactments listed in Schedule 1.

(2) The number of persons specified for the purposes of paragraph 6(1)(c) of Schedule 14 to the Act is two.

Applications for licences under Part 2 or 3 of the Act

7.—(1) An application for a licence under section 63 (application for HMO licence) or 87 (application for licence of Part 3 house) of the Act ("an application") must include a statement in the form specified in paragraph 1 of Schedule 2.

(2) An applicant must supply as a part of the application—

(a) the information contained in paragraph 2 of Schedule 2; and

(b) the information relating to the proposed licence holder or proposed manager of the HMO or house specified in paragraph 3 of Schedule 2.

(3) An applicant must—

(a) supply with the application completed and signed declarations in the form specified in paragraph 4 of Schedule 2; and

(b) sign the application.

(4) Where the applicant proposes that another person should be the licence holder, both the applicant and the proposed licence holder must comply with the requirements in paragraph (3).

(5) The applicant must give the following information about the application to every relevant person—

(a) the name, address, telephone number and any e-mail address or fax number of the applicant;

(b) the name, address, telephone number and any e-mail address or fax number of the proposed licence holder (if the licence holder is not the applicant);

(c) the type of application by reference to it being made in respect of an HMO which must be licensed under Part 2 or in respect of a house which must be licensed under Part 3 of the Act;

(d) the address of the HMO or house to which the application relates;

(e) the name and address of the local housing authority to which the application is made; and

(f) the date on which the application is, or is to be, made.

(6) Nothing in paragraph (5) precludes an applicant from supplying a copy of the application, or other information about the application, to a relevant person.

(7) A local housing authority must refund an applicant in full any fee that the applicant has paid in respect of an application as soon as reasonably practicable after it learns that at the time the fee was paid—

(a) in the case of an application for a licence under Part 2 of the Act, the house was not an HMO, or was not an HMO which was required to be licensed; or

(b) in the case of an application for a licence under Part 3 of the Act, the house was a house which was not required to be licensed under Part 2 or 3 of the Act.

(8) Paragraph (7) applies whether or not the local housing authority, pursuant to the application, granted a licence for the HMO or house when it was not required to be licensed.

(9) For the purposes of this regulation a "relevant person" ("*person perthnasol*") is any person (other than a person to whom paragraph (10) applies)—

(a) who, to the knowledge of the applicant, is—

(i) a person having an estate or interest in the HMO or house which is the subject of the application, or

(ii) a person managing or having control of that HMO or house (and not falling within sub-paragraph (i)); or

(b) where the applicant proposes in the application that the licence should include conditions imposing a restriction or obligation on any person (other than the licence holder), that person(**11**).

(10) This paragraph applies to any tenant under a lease with an unexpired term of three years or less.

Prescribed standards for deciding on the suitability of a house for multiple occupation by a particular maximum number of households or persons

8. The standards prescribed for the purpose of section 65 of the Act (tests as to suitability of HMO for multiple occupiers) are those set out in Schedule 3.

Publication requirements relating to designations under Part 2 or 3 of the Act

9.—(1) A local housing authority which is required under section 59(2) or 83(2) of the Act to publish a notice of a designation of an area for the purpose of Part 2 or 3 of the Act must do so in the manner prescribed by paragraph (2).

(2) Within 7 days after the date on which the designation was confirmed or made the local housing authority must—

(a) place the notice on a public notice board at one or more municipal buildings within the designated area, or if there are no such buildings within the designated area, at the closest of such buildings situated outside the designated area;

(b) publish the notice on the local housing authority's internet site; and

(c) arrange for its publication in at least two local newspapers circulating in or around the designated area.

(3) Within 2 weeks after the designation was confirmed or made the local housing authority must send a copy of the notice to—

(a) any person who responded to the consultation conducted by it under section 56(3) or 80(9) of the Act;

(b) any organisation which, to the reasonable knowledge of the local housing authority—

(i) represents the interests of landlords or tenants within the designated area; or

(ii) represents managing agents, estate agents or letting agents within the designated area; and

(c) every organisation within the local housing authority area which the local housing authority knows or believes provides advice on landlord and tenant matters, including—

(i) law centres;

(ii) citizens' advice bureaux;

(iii) housing advice centres; and

(**11**) For licence conditions *see* sections 67 and 90 of the Act, and, in particular, sections 67(5) and 90(6).