WELSH STATUTORY INSTRUMENTS

2006 No. 1641 (W.156)

HOUSING, WALES

The Residential Property Tribunal Procedure (Wales) Regulations 2006

Made - - - -	*20 June 2006*
Coming into force - -	*23 June 2006*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 250(2)(a) of and Schedule 13 to the Housing Act 2004(**1**).

Title and commencement

1.—(1) The title of these Regulations is The Residential Property Tribunal Procedure (Wales) Regulations 2006.

(2) These Regulations come into force on 23 June 2006.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the Housing Act 2004;

"the 1985 Act" ("*Deddf 1985*") means the Housing Act 1985(**2**);

"application" ("*cais*") means an application or appeal to a tribunal under the Act or Part IX of the 1985 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;

"the Fees Regulations" ("*y Rheoliadau Ffioedd*") means the Residential Property Tribunals (Fees) (Wales) Regulations 2006(**3**);

(**1**) 2004 c. 34. The power to make regulations under Schedule 13 is, in relation to Wales, conferred on the National Assembly for Wales and in relation to England, on the Secretary of State, *see* the definition of "appropriate national authority" in section 261 of the Housing Act 2004.
(**2**) 1985 c. 68.
(**3**) 2006/1642 (W.157)

"IMO authorisation application" ("*cais am awdurdodi gorchymyn rheoli dros dro*") means an application for authorisation to make an interim management order(**4**);

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

(a) a person other than the applicant who would have been entitled under the 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 Act—

(i) section 73(7);

(ii) section 96(7);

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

(iv) 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 Act; or

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

(d) the LHA where it is not a party to the application;

"LHA" ("*awdurdod tai lleol*") means the local housing authority(**5**);

"premises" ("*mangre*") means the dwelling or building to which the application relates;

"the respondent" ("*yr ymatebydd*") means, in respect of an 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;

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

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

Application

3. These Regulations apply to proceedings of residential property tribunals for determining applications in respect of premises in Wales made—

(a) under the Act;

(b) under section 318(1) of the 1985 Act in respect of applications made on or after 23 June 2006; or

(c) under any of sections 269(1), 272(1) or (2)(a), 272(2)(b), or 317(1) of the 1985 Act in respect of demolition orders made on or after 23 June 2006.

The overriding objective

4.—(1) When a tribunal—

(a) exercises any power under these Regulations, or

(b) interprets any regulation,

(**4**) For the meaning of "interim management order" *see* section 101(3) of the Act, and for authorisations to make such an order *see* section 102(4) and (7).

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

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 that party's case without advocating the course which should be taken by that party;

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

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

Request for extension of time to make an application

5.—(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 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 further 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.

Particulars of application

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

(a) the applicant's name and address;

(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; and

(h) 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 particulars required by paragraph (1) may be dispensed with or relaxed if the tribunal is satisfied that—

(a) the particulars and documents included with 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.

(3) A single qualified member of the panel(**6**) may exercise the power conferred by paragraph (2).

Acknowledgement and notification of application by tribunal

7.—(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 9 applies, the tribunal must also send to the respondent a notice specifying the date by which the respondent must send the reply mentioned in regulation 8.

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

Reply by respondent

8.—(1) This regulation applies where a respondent receives the notice mentioned in regulation 7(2).

(2) Where this regulation applies the respondent must by the date specified in that notice send to the tribunal a written reply acknowledging receipt of the copy documents sent in accordance with regulation 7(1)(b) and stating—

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

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

(c) the address to which documents should be sent for the purposes of the proceedings.

Urgent IMO authorisation applications

9.—(1) This regulation applies where the LHA requests a tribunal to deal with an IMO authorisation application as a matter of urgency.

(2) Where it appears to the tribunal, on the basis of information accompanying the application, that the exceptional circumstances mentioned in paragraph (3) exist, it may order an oral hearing (an "urgent oral hearing") to be held without complying with the notice requirements of regulation 25.

(3) The exceptional circumstances are that—

(a) there is an immediate threat to the health and safety of the occupiers of the house or to persons occupying or having an estate or interest in any premises in the vicinity of the house; and

(b) by making the interim management order as soon as possible (together where applicable with such other measures as the LHA intends to take) the LHA will be able to take immediate appropriate steps to arrest or significantly reduce the threat.

(4) The tribunal must as soon as practicable notify the parties and each interested person whose name and address have been notified to it—

(a) that the application is being dealt with as a matter of urgency under this regulation;

(b) of the reasons why it appears to the tribunal that the exceptional circumstances exist;

(c) of any requirement to be satisfied by a party before the hearing; and

(d) of the date on which the urgent oral hearing will be held.

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

(5) The date of the hearing must be not less than 4 days after the date that notification of the urgent oral hearing is sent.

(6) At the urgent oral hearing the tribunal must—

(a) if it is satisfied upon hearing evidence that the exceptional circumstances do exist, determine the application; or

(b) if it is not so satisfied—

(i) adjourn the hearing; and

(ii) give such directions as it considers appropriate.

(7) A single qualified member of the panel may—

(a) exercise the power conferred by paragraph (2); and

(b) decide the date of the urgent oral hearing.

(8) Where the tribunal orders an urgent oral hearing the notice provisions contained in the following regulations do not apply to the application—

(a) regulation 21(5) (notice of inspection); and

(b) regulation 25(3) and (4) (notice of hearing).

Request to be treated as an applicant or respondent

10.—(1) A person ("the potential party") may make a request to the tribunal to be joined as a party to the proceedings.

(2) Any request under paragraph (1)—

(a) may be made without notice;

(b) must be in writing;

(c) must give reasons for the request; and

(d) must specify whether the potential party wishes to be treated as—

(i) an applicant; or

(ii) a respondent.

(3) As soon as practicable after reaching its decision whether to grant or refuse a request under paragraph (1), the tribunal must—

(a) notify the potential party of the decision and the reasons for it; and

(b) send a copy of the notification to the existing parties.

(4) Any potential party whose request under paragraph (1) is granted must be treated as an applicant or respondent for the purposes of regulations 4, 9, 11, 13 to 37 and 39 to 41.

(5) In the regulations mentioned in paragraph (4) any reference to an applicant or a respondent must be construed as including a person treated as such under this regulation, and any reference to a party must be construed as including any such person.

(6) A single qualified member of the panel may grant or refuse a request under paragraph (1).

Determining applications together

11.—(1) This regulation applies where separate applications have been made which in the opinion of the tribunal—

(a) involve related issues concerning the same premises; or