WELSH STATUTORY INSTRUMENTS

2005 No. 2680 (W.186)

HOUSING, WALES

The Housing (Right of First Refusal) (Wales) Regulations 2005

Made - - - -	*27 September 2005*
Coming into force - -	*28 September 2005*

The National Assembly for Wales makes the following Regulations in exercise of the powers given to the Secretary of State by sections 36A, 156A and 171C of the Housing Act 1985(**1**), and sections 12A and 17(2) to (5) of the Housing Act 1996(**2**) which are now vested in the National Assembly for Wales so far as exercisable in relation to Wales:

Title, commencement, interpretation and application

1.—(1) The title of these Regulations is the Housing (Right of First Refusal) (Wales) Regulations 2005 and they come into force on 28 September 2005.

(2) In these Regulations—

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

"acceptance notice" ("*hysbysiad derbyn*") means a notice which complies with the requirements of regulation 12(2);

"former landlord" ("*landlord blaenorol*") means the landlord which disposed of the property under Part 5 of the 1985 Act;

"local housing authority" ("*awdurdod tai lleol*") means a county council or county borough council in Wales;

"offer notice" ("*hysbysiad cynnig*") means a notice which complies with the requirements of regulation 12(1);

(**1**) 1985 c. 68. Section 36A was inserted by section 197 of the Housing Act 2004 (c. 34) and section 156A was inserted by section 188 of that Act. Section 171C was inserted by section 8(1), (3) of the Housing and Planning Act 1986 (c. 63) and was amended by section 127(2), (3) of the Housing Act 1988 (c. 50), and by paragraph 19 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), and partly repealed by Schedule 22 to the 1993 Act. The Secretary of State's functions under section 171C, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2 and Schedule 1. The Secretary of State's functions under sections 36A and 156A are exercisable by the National Assembly for Wales in relation to Wales by virtue of section 267 of the Housing Act 2004 and S.I. 1999/672.

(**2**) 1996 c. 52. Section 12A was inserted by section 200 of the Housing Act 2004. The Secretary of State's functions under section 17(2)-(5), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1. The Secretary of State's functions under section 12A are exercisable by the National Assembly for Wales, in relation to Wales, by virtue of section 267 of the Housing Act 2004 and S.I. 1999/672.

"owner" ("*perchennog*") means the person who is the freehold or leasehold owner of a property and who is bound by a right of first refusal covenant imposed under section 156A of the 1985 Act;

"property" ("*eiddo*") means a property which is subject to a right of first refusal covenant imposed under section 156A of the 1985 Act; and

"rejection notice" ("*hysbysiad gwrthod*") means a notice which complies with the requirements of regulation 12(3).

(3) These Regulations apply where a right of first refusal covenant has been imposed in relation to a dwelling-house situated in Wales.

Operative provisions for leasehold and freehold properties

2.—(1) These Regulations apply where there is to be a relevant disposal, other than an exempted disposal, of the owner's interest in the property.

(2) Where the owner has a leasehold interest the owner must comply with the requirements of regulation 3.

(3) Where the owner has a freehold interest the owner must comply with the requirements of regulation 4.

Service of offer notice — leasehold property

3. The owner must serve an offer notice on—

(a) the former landlord, if it is still the landlord; or

(b) if the former landlord is not still the landlord, the person in which the reversionary interest is currently vested.

Service of offer notice — freehold property

4. The owner must serve an offer notice on—

(a) the former landlord (if that person is still in existence); or

(b) if the former landlord is not still in existence, the local housing authority for the area in which the property is situated.

Acknowledgement of receipt of offer notice

5.—(1) The recipient of an offer notice under either regulation 3 or 4 must send an acknowledgement of receipt to the owner as soon as reasonably practicable.

(2) The acknowledgement of receipt must—

(a) specify the date of receipt of the offer notice; and

(b) explain the effect of regulations 6 to 10, in simple terms.

Acceptance notices

6.—(1) Where the recipient of an offer notice wishes to accept the offer, it must do so within the period of 8 weeks beginning with the date of receipt of the notice.

(2) Acceptance of an offer must be by acceptance notice, in which the recipient of the offer notice must either—

(a) itself accept the offer; or

(b) nominate another person to accept the offer in accordance with regulation 8.

(3) The service of an acceptance notice by any person entitled to do so does not confer any right on the owner of the property to require that person to purchase the property unless and until that person enters into a binding contract for sale in accordance with regulation 10.

Rejection notices

7.—(1) The recipient of an offer notice must serve a rejection notice as soon as it has decided that it does not wish to either—

(a) accept the offer itself; or

(b) nominate another person to accept the offer in accordance with regulation 8.

(2) The rejection notice must be served within 8 weeks from the date of receipt of the offer notice.

Nomination of another person to accept an offer

8.—(1) The recipient of an offer notice may nominate another person to accept the offer.

(2) The only persons who can be nominated to accept an offer are those who either—

(a) are registered as a social landlord under Part 1 of the Housing Act 1996; or

(b) fulfil the landlord condition in section 80(**3**) of the 1985 Act.

(3) Before a person can be nominated to accept a particular offer, that person must have given an unequivocal indication in writing to the recipient of the offer notice that it wishes to be nominated to accept the offer.

(4) For the purposes of this regulation, "in writing" includes a document transmitted by facsimile or other electronic means.

Disposal of property and requirement for further offer notice

9.—(1) Where an owner has served an offer notice and the recipient—

(a) has not served either an acceptance notice or a rejection notice within 8 weeks from the date of receipt of the offer notice; or

(b) has served a rejection notice,

then, subject to paragraph (2), the owner may dispose of the property as the owner sees fit; and these Regulations will not apply to any subsequent disposal of the property by the owner.

(2) If after the expiry of the period of 12 months, as determined in accordance with paragraphs (3) or (4) as appropriate, the owner retains the interest in the property, these Regulations apply if there is to be a disposal of a kind described in regulation 2(1).

(3) In the circumstances referred to in paragraph (1)(a), the 12 month period begins the day after the expiry of the 8 week period.

(4) In the circumstances referred to in paragraph (1)(b), the 12 month period begins the day after that on which the rejection notice is served.

Time limit for completion of purchase

10.—(1) A person who accepts an offer must enter into a binding contract with the owner for the purchase of the property—

(**3**) Section 80 was amended by paragraph 26 of Schedule 5 to the Housing and Planning Act 1986, sections 83(2) and 140 of, and Schedule 18 to, the Housing Act 1988, sections 140 and 152 of, and Schedules 16 and 18 to, the Government of Wales Act 1998, and S.I. 1996/2325.