WELSH STATUTORY INSTRUMENTS

2005 No. 1228 (W.86)

HOUSING, WALES

The Demoted Tenancies (Review of Decisions) (Wales) Regulations 2005

Made - - - -	*26 April 2005*
Coming into force - -	*30 April 2005*

The National Assembly for Wales, in exercise of the powers conferred upon it by section 143F(3) and (4) of the Housing Act 1996(**1**), makes the following Regulations:

Name, commencement and application

1.—(1) These Regulations are called the Demoted Tenants (Review of Decisions) (Wales) Regulations 2005 and come into force on 30 April 2005.

(2) These Regulations apply in relation to dwelling-houses in Wales.

Persons who may carry out reviews

2.—(1) A review under section 143F of the Housing Act 1996 of a decision to seek an order for possession of a dwelling-house let under a demoted tenancy ("the review") must be carried out by a person who was not involved in that decision.

(2) Where the review is of a decision made by an officer of the landlord and is to be carried out by an another officer, the officer reviewing the decision must occupy a more senior position within the organisation of the landlord.

Notice of review

3. The landlord under the demoted tenancy must give the tenant not less than five clear days' notice of the date of the review.

(**1**) 1996 c. 52; section 143F was inserted by section 14 of and Schedule 1 to the Anti-social Behaviour Act 2003. The functions of the Secretary of State under Part 5 of the Housing Act 1996 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672, to which there are amendments not relevant to these Regulations) and section 17 of the Anti-social Behaviour Act 2003.

Right to an oral hearing

4.—(1) Where the tenant so requests, the review must be by way of an oral hearing.

(2) Any such request must be made to the landlord before the end of the period mentioned in subsection (1) of section 143F of the Housing Act 1996 (time permitted for requesting a review).

(3) If the tenant makes such a request the landlord must, when giving the tenant notice of the date of the review in accordance with regulation 3, also inform the tenant of the time and place at which the review will be heard.

Written representations

5. Whether or not the review is to be by way of an oral hearing —

(a) the tenant may make written representations to the landlord in connection with the review;

(b) such representations must be received by the landlord not less than two clear days before the date of the review; and

(c) the landlord must consider any such representations which are received by that date.

Review by way of an oral hearing

6.—(1) Where the review is to be by way of an oral hearing, the tenant has the right to be heard and to be accompanied or to be represented by another person (whether or not that person is professionally qualified).

(2) The tenant or the tenant's representative may —

(a) call persons to give evidence at the hearing;

(b) put questions to any person who gives evidence at the hearing.

(3) Subject to these Regulations, the procedure in connection with a review by way of an oral hearing is to be determined by the person carrying out the review.

Absence of tenant and representative from hearing

7.—(1) This paragraph applies where notice has been given to the tenant in accordance with regulations 3 and 4(3) and neither the tenant nor the tenant's representative appears at the hearing.

(2) Where paragraph (1) applies, the person carrying out the review may, having regard to all the circumstances —

(a) proceed with the hearing; or

(b) give such directions with a view to the conduct of the review as that person considers appropriate.

Postponement of hearing

8.—(1) The tenant may request the landlord to postpone a hearing of which notice has been given in accordance with regulations 3 and 4(3) and the landlord may grant or refuse the request.

(2) If the hearing is postponed the landlord must give the tenant reasonable notice of the date, time and place of the postponed hearing.

Adjournment of hearing

9.—(1) A hearing may be adjourned by the person carrying out the review at any time, either on that person's own initiative or at the request of the tenant, the tenant's representative or the landlord.