WELSH STATUTORY INSTRUMENTS

2004 No. 683 (W.71)

LANDLORD AND TENANT, WALES

The Leasehold Valuation Tribunals (Fees) (Wales) Regulations 2004

Made - - - -	*9th March 2004*
Coming into force - -	*31st March 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by paragraphs 1 and 9 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002(**1**), hereby makes the following Regulations:

Name, commencement and interpretation

1.—(1) These Regulations are called the Leasehold Valuation Tribunals (Fees) (Wales) Regulations 2004.

(2) These Regulations shall come into force on 31st March 2004.

(3) In these Regulations —

"the 1985 Act" ("*Deddf 1985*") means the Landlord and Tenant Act 1985(**2**);

"the 1987 Act" ("*Deddf 1987*") means the Landlord and Tenant Act 1987(**3**);

"the 2002 Act" ("*Deddf 2002*") means the Commonhold and Leasehold Reform Act 2002;

"applicant" ("*ceisydd*") means —

(a) the person making an application to a tribunal; or

(b) the person who is the claimant or applicant in proceedings before a court which are transferred by order of the court to a tribunal;

"application" ("*Cais*") means an application made to the tribunal under —

(a) section 20ZA of the 1985 Act (consultation requirements)(**4**);

(b) section 27A of the 1985 Act (service charges)(**5**);

(**1**) 2002 c. 15. The "appropriate national authority" means the National Assembly for Wales as respects Wales (*see* section 179(1)).
(**2**) 1985 c. 70.
(**3**) 1987 c. 31.
(**4**) Substituted, together with a new section 20, by the Commonhold and Leasehold Reform Act 2002 (c. 15) ("the 2002 Act"), section 151(1), in force for the purposes of making regulations from 1 January 2003 (S.I. 2002/3012) and in force for the remaining purposes from 30th March 2004 (S.I. 2004/669(W.62) (C.25)).
(**5**) Inserted by the 2002 Act, section 155(1) from 30th March 2004 (S.I. 2004/669 (W.62) (C.25)).

(c) paragraph 8(2) of the Schedule to the 1985 Act (insurers)(**6**);

(d) section 24 of the 1987 Act (appointment of managers)(**7**);

(e) Part 4 of the 1987 Act (variation of leases);

(f) paragraph 3 of Schedule 11 to the 2002 Act (administration charges); or

(g) paragraph 5 of Schedule 11 to the 2002 Act;

"hearing" ("*gwrandawiad*") means a hearing before a tribunal to determine one or more of the following —

(a) an application;

(b) transferred proceedings; or

(c) a representative application,

but, for the purposes of the payment of a fee for a hearing, does not include—

(i) a pre-trial review; or

(ii) a hearing to consider dismissing an application as frivolous or vexatious;

"representative application" ("*cais cynrychioliadol*") means an application dealt with as a representative application under regulation 8 of the Leasehold Valuation Tribunal (Procedure) (Wales) Regulations 2004(**8**);

"transferred proceedings" ("*achos a drosglwyddwyd*") means proceedings which a court has transferred to a tribunal for determination; and

"tribunal" ("*tribiwnlys*") means a leasehold valuation tribunal.

Application of Regulations

2. These Regulations shall apply —

(a) in relation to any application made to a tribunal on or after 31st March 2004;

(b) in relation to any proceedings transferred from a court to a tribunal on or after that date,

in respect of premises in Wales.

Fees: applications

3.—(1) Subject to regulation 8, a fee shall be payable for an application to a tribunal under —

(a) section 27A of the 1985 Act (determination of liability to pay a service charge);

(b) paragraph 8(2)(b) of the Schedule to the 1985 Act (right to challenge the insurance premium);

(c) paragraph 3 of Schedule 11 to the 2002 Act (variation of lease because of administration charge); and

(d) paragraph 5 of Schedule 11 to the 2002 Act (determination of liability to pay an administration charge).

(2) Subject to paragraph (5), the fee payable under paragraph (1), where the service charge, insurance premium or administration charge which is the subject of the application —

(a) is not more than £500, is £50;

(**6**) Substituted by the Housing Act 1996 (c. 52), section 83(2).
(**7**) Amended by the Housing Act 1996 (c. 52), section 86(2); amended by the 2002 Act, section 160(1), (4) from 1 January 2003; there are other amendments not relevant to these Regulations.
(**8**) S.I. 2004/[681 (W.69)].

(b) is more than £500 but not more than £1000, is £70;

(c) is more than £1000 but not more than £5000, is £100;

(d) is more than £5000 but not more than £15000, is £200; and

(e) is more than £15000, is £350.

(3) Subject to regulation 8, a fee shall be payable for an application to a tribunal under —

(a) section 20ZA of the 1985 Act (determination to dispense with consultation requirements);

(b) paragraph 8(2)(a) of the Schedule to the 1985 Act (determination as to suitability of insurer);

(c) section 24 of the 1987 Act (appointment of managers); and

(d) Part 4 of the 1987 Act (variation of leases).

(4) Subject to paragraph (5), the fee payable under paragraph (3) —

(a) where the application relates to 5 or fewer dwellings, is £150;

(b) where the application relates to between 6 and 10 dwellings, is £250; and

(c) where the application relates to more than 10 dwellings, is £350.

(5) Where an application is made under —

(a) two or more of the provisions mentioned in paragraph (1);

(b) two or more of the provisions mentioned in paragraph (3); or

(c) one or more of the provisions mentioned in paragraph (1) and one or more of the provisions mentioned in paragraph (3),

the fee payable in respect of the application shall be the highest of the fees which would have been payable in accordance with paragraph (2) or (4) (as the case may be) if a separate application had been made under each of those provisions.

Fees: applications transferred from court

4.—(1) Subject to paragraph (2) and regulation 8, where a court, by order, transfers to a tribunal so much of any proceedings as relate to the determination of a question falling within the jurisdiction of the tribunal by virtue of a provision mentioned in paragraph (1) or (3) of regulation 3, the fee payable to the tribunal shall be the fee which would have been payable under paragraph (2), (4) or (5) of that regulation (as the case may be) for an application less the total amount of any fees paid by the applicant to the court in respect of the proceedings on or before the date of that order.

(2) Where the total amount of any fees paid to the court on or before the date of the order mentioned in paragraph (1) is equal to or more than the fee payable under that paragraph, no fee shall be payable to the tribunal under that paragraph.

Fees: hearings

5.—(1) Subject to paragraph (2) and regulation 8, a fee of £150 shall be payable for a hearing.

(2) Where part of an application or transferred proceedings is or will be determined at, or in accordance with, a hearing of a representative application and part is to be determined at a separate hearing, the fee for the part which is to be heard separately shall be £150 less the total amount of any fees paid by the applicant in accordance with regulation 7(5) for that part of the application or transferred proceedings which is to be determined at, or in accordance with, the representative application.

Payment of fees

6.—(1) Any fee payable under regulation 3 shall accompany the application.

(2) Any fee payable under regulation 4 or 5 shall be due within 14 days of a written request for payment by the tribunal and shall be sent to the address specified in that request.

(3) The fee shall be paid by a cheque made payable to or postal order drawn in favour of the National Assembly for Wales.

Liability to pay and apportionment of fees

7.—(1) Subject to regulation 8 and the following paragraphs, the applicant shall be liable to pay any fee payable to a tribunal under these Regulations.

(2) Subject to paragraph (3), where an application is made or transferred proceedings are brought by more than one person, any fee payable under regulations 3 or 4 for the application or transferred proceedings shall be apportioned equally between those persons and each person shall be liable to pay one portion.

(3) Where —

(a) an application is made or transferred proceedings are brought by the tenant or the landlord of premises; and

(b) the tenant or landlord is more than one person,

those persons together shall be treated as one person for the purposes of paragraph (2).

(4) Where two or more applications are heard together, other than applications which are heard with a representative application, any fee payable under regulation 5 for the hearing shall be apportioned equally between the applications and, subject to the provisions of paragraphs (2), (3) and (6) and regulation 8, the applicant in each application shall be liable to pay one portion.

(5) Any fee payable under regulation 5 for the hearing of a representative application and any application heard with the representative application shall be apportioned equally between —

(a) the representative application;

(b) all other applications which, at the time of the request for payment of the fee, are to be determined in whole or in part in accordance with the representative application; and

(c) any application heard with the representative application,

and, subject to the provisions of paragraphs (2), (3) and (6) and regulation 8, the applicant in each application shall be liable to pay one portion of the fee.

(6) The amount payable by any person in respect of a fee shall be calculated in accordance with the provisions of this article and by reference to the persons who are applicants on the date the application is made or the date of the request for payment issued by the tribunal.

(7) In this regulation, "applicant" includes any person, whose request under regulation 6 of the Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004 to be joined as a party to the proceedings and treated as an applicant, has been granted by the tribunal.

Waiver and reduction of fees

8.—(1) A person shall not be liable to pay any fee due under these Regulations where on the relevant date, that person or that person's partner is in receipt of —

(a) either of the following benefits under Part 7 of the Social Security Contributions and Benefits Act 1992(**9**) —

(**9**) 1992 c. 4; amended by the Tax Credits Act 2002 (c. 21), sections 60 and Schedule 6. There are other amendments not relevant to these Regulations.