WELSH STATUTORY INSTRUMENTS

2004 No. 681 (W.69)

LANDLORD AND TENANT, WALES

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

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

The National Assembly for Wales, in exercise of the powers vested in it under section 35(5) of the Landlord and Tenant Act 1987(**1**) and Schedule 12 to the Commonhold and Leasehold Reform Act 2002(**2**),and after consultation with the Council on Tribunals, hereby makes the following Regulations:

Name, commencement, and application

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

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

(3) These Regulations apply in relation to any application made, or proceedings transferred from a court, to a leasehold valuation tribunal(**3**) in respect of premises in Wales on or after 31st March 2004.

Interpretation

2. In these Regulations —

"the 1985 Act" ("*Deddf 1985*") means the Landlord and Tenant Act 1985(**4**);

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

"the 1993 Act" ("*Deddf 1993*") means the Leasehold Reform, Housing and Urban Development Act 1993(**5**);

(**1**) 1987 c. 31; section 35(5) amended by section 163(2) of the Commonhold and Leasehold Reform Act 2002 (c. 15) ("the 2002 Act"). The functions of the Secretary of State under section 35(5) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672. Under section 177 of the 2002 Act, references to the 1987 Act in S.I. 1999/672 are to be treated as references to that Act as amended by Part 2 of the 2002 Act.
(**2**) 2002 c. 15; *see* section 179(1) for the definition of "the appropriate national authority" as respects Wales.
(**3**) *See* section 173 of the 2002 Act.
(**4**) 1985 c. 70.
(**5**) 1993 c. 28.

"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, other than for the purposes of regulations 1, 20 and 25 —

(a) an application to a tribunal of a description specified in Schedule 1, or

(b) a transferred application;

"recognised tenants' association" ("*cymdeithas tenantiaid cydnabyddedig*") has the same meaning as in section 29 of the 1985 Act(**6**);

"representative application" ("*cais cynrychioladol*") has the meaning given in regulation 8;

"respondent" ("*atebydd*") means —

(a) the person against whom an applicant seeks an order or determination from a tribunal; or

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

"transferred application" ("*cais a drosglwyddwyd*") means so much of proceedings before a court as relate to a question falling within the jurisdiction of a tribunal as have been transferred to the tribunal for determination by order of the court; and

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

Particulars of applications

3.—(1) The particulars to be included with an application are —

(a) the name and address of the applicant;

(b) the name and address of the respondent;

(c) the name and address of any landlord or tenant of the premises to which the application relates;

(d) the address of the premises to which the application relates; and

(e) a statement that the applicant believes that the facts stated in the application are true.

(2) Where an application is of a description specified in paragraph 1 of Schedule 1 (enfranchisement and extended leases) the particulars and documents listed in paragraph 1 of Schedule 2 shall be included with the application.

(3) Where an application is of a description specified in paragraph 2 of Schedule 1 (service charges, administration charges and estate charges) the particulars and documents listed in paragraph 2 of Schedule 2 shall be included with the application.

(4) Where an application is of a description specified in paragraph 3 of Schedule 1 (estate management schemes) the particulars and documents listed in paragraph 3 of Schedule 2 shall be included with the application.

(5) Where an application is of a description specified in paragraph 4 of Schedule 1 (right to manage) the particulars and documents listed in paragraph 4 of Schedule 2 shall be included with the application.

(**6**) Amended by paragraph 10 of Schedule 2 to the Landlord and Tenant Act 1987.

(6) Where an application is of a description specified in paragraph 5 of Schedule 1 (appointment of manager) the particulars and documents listed in paragraph 5 of Schedule 2 shall be included with the application.

(7) Where an application is of a description specified in paragraph 6 of Schedule 1 (variation of leases) the particulars and documents listed in paragraph 6 of Schedule 2 shall be included with the application.

(8) Any of the requirements in the preceding paragraphs may be dispensed with or relaxed if the tribunal is satisfied that —

(a) the particulars and documents included with an application are sufficient to enable the application to be determined; and

(b) no prejudice will, or is likely to, be caused to any party to the application.

Notice of application under Part 4 of the 1987 Act

4.—(1) The applicant shall give notice of an application under Part 4 of the 1987 Act (variation of leases) to the respondent and to any person who the applicant knows, or has reason to believe, is likely to be affected by any variation specified in the application.

(2) On receipt of the notice under paragraph (1) the respondent shall give notice of the application to any person not already notified under that paragraph, who the respondent knows, or has reason to believe, is likely to be affected by any variation specified in the application.

Notice of application by tribunal

5.—(1) On receipt of an application, other than an application made under Part 4 of the 1987 Act, the tribunal shall send a copy of the application and each of the documents accompanying it to each person named in it as a respondent.

(2) On receipt of an application of a description specified in paragraph 2 of Schedule 1 (service charges, administration charges and estate charges), the tribunal shall give notice of the application to —

(a) the secretary of any recognised tenants' association mentioned in the particulars included in the application; and

(b) any person, whose name and address the tribunal has, who the tribunal considers is likely to be significantly affected by the application.

(3) On receipt of an application the tribunal may give notice to any other person it considers appropriate.

(4) Any notice given under paragraph (2) or (3) shall include a statement that any person may make a request to the tribunal under regulation 6 to be joined as a party to the proceedings with details as to how such a request can be made.

(5) Any notice given under paragraph (2) or (3) may be given by local advertisement.

(6) In this regulation, “local advertisement” means publication of the notice in two newspapers (at least one of which should be a freely distributed newspaper) circulating in the locality in which the premises to which the application relates is situated.

Request to be treated as an applicant or respondent

6.—(1) Any person 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; and

(b) shall specify whether the person making the request wishes to be treated as —

(i) an applicant; or

(ii) a respondent,

to the application.

(3) The tribunal may grant or refuse a request under paragraph (1).

(4) As soon as possible after reaching its decision on a request under paragraph (1), the tribunal shall —

(a) notify the person making the request of the decision and the reasons for it; and

(b) send a copy of the notification to the applicant and the respondent.

(5) Any person whose request under paragraph (1) is granted shall be treated as an applicant or respondent, as the case may be, for the purposes of regulations 8 to 18, 20 and 24.

(6) In the regulations mentioned in paragraph (5) any reference to —

(a) an applicant, or

(b) a respondent,

shall be construed as including a person treated as such under this regulation and any reference to a party shall be construed as including any such person.

Non-payment of fees

7.—(1) In any case where a fee which is payable under regulation 4 or 5 of the Leasehold Valuation Tribunals (Fees) (Wales) Regulations 2004(**7**) is not paid in accordance with those Regulations, the tribunal shall not proceed further with the application to which the fee relates until the fee is paid.

(2) Where a fee remains unpaid for a period of one month from the date on which it becomes due, the application shall be treated as withdrawn unless the tribunal is satisfied that there are reasonable grounds not to do so.

Representative applications and other provisions for securing consistency

8.—(1) Where it appears to a tribunal that numerous applications —

(a) have been made in respect of the same or substantially the same matters; or

(b) include some matters which are the same or substantially the same,

the tribunal may propose to determine only one of those applications ("the representative application") as representative of all of the applications on those matters which are the same or substantially the same ("the common matters"), and shall give notice of the proposal to the parties to all such applications.

(2) A notice under paragraph (1) shall —

(a) specify the common matters;

(b) specify the application which the tribunal proposes to determine as the representative application;

(c) explain that the tribunal's decision on the common matters in the representative application will apply to the common matters in any application made by a person to whom notice has been given under that paragraph;

(d) invite objections to the tribunal's proposal to determine the representative application; and

(7) S.I. 2004/683 (W.71).

(e) specify the address to which objections may be sent and the date (being not less than 21 days after the date that the notice was sent) by which the objections must be received by the tribunal.

(3) Where no objection is received on or before the date specified in the notice —

(a) the tribunal shall determine the representative application in accordance with these Regulations;

(b) the tribunal need not determine the matters mentioned in paragraph (1)(a) in any other application made by a person to whom a notice under paragraph (1) has been given; and

(c) the decision of the tribunal in respect of the representative application shall be recorded as the decision of the tribunal in respect of the common matters in any such other application.

(4) Where an objection is received on or before the date specified in the notice —

(a) sub-paragraphs (a) to (c) of paragraph (3) shall apply only to those applications in respect of which no objection was made, and

(b) the application in respect of which an objection was made may be determined together with the representative application.

Subsequent applications where notice of the representative application given

9.—(1) If, after a representative application has been determined, a subsequent application is made which includes any of the common matters on which the tribunal has made a decision in its determination of the representative application, and the applicant is a person to whom a notice under regulation 8(1) was given, the tribunal shall give notice to the parties to the subsequent application of —

(a) the matters which, in the opinion of the tribunal, are the common matters in the subsequent application and the representative application;

(b) the decision recorded in respect of the common matters in the representative application;

(c) the date on which notice under regulation 8(1) was given to the applicant;

(d) the tribunal's proposal to record the tribunal's decision on the common matters in the subsequent application in identical terms to the decision in the representative application;

(e) the address to which objections to the tribunal's proposal may be sent and the date (being not less than 21 days after the date that the notice was sent) by which such objections must be received by the tribunal; and

(f) a statement that any objection must include the grounds on which it is made and, in particular, whether it is alleged that the notice under regulation 8(1) was not received by the person making the objection.

(2) Where no objection is received on or before the date specified in the notice —

(a) the tribunal need not determine the matters mentioned in paragraph 1(a); and

(b) the decision of the tribunal in respect of the common matters in the representative application shall be recorded as the decision of the tribunal in respect of the common matters in the subsequent application.

(3) Where an objection is received to the tribunal's proposal on or before the date specified in the notice —

(a) the tribunal shall consider the objection when determining the subsequent application; and

(b) if the tribunal dismisses the objection, it may record the decision mentioned in paragraph (1)(b) as the decision of the tribunal in the subsequent application.