OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

# 2024 Rhif 798 (Cy. 127)

# 2024 No. 798 (W. 127)

# LANDLORD A THENANT, CYMRU

# LANDLORD AND TENANT, WALES

## Rheoliadau Daliadau Amaethyddol (Ceisiadau am Gydsyniad y Landlord neu Amrywio Telerau a'r Prawf Addasrwydd) (Cymru) 2024

## The Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024

### NODYN ESBONIADOL

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch datrys anghydfodau mewn perthynas â chydsyniad y landlord ac amrywiadau i delerau contract tenantiaeth daliad amaethyddol o dan Ddeddf Daliadau Amaethyddol 1986 (p. 5) ("Deddf 1986") ac ynghylch ceisiadau i olynu i denantiaeth daliad amaethyddol o dan Ddeddf 1986.

Mae Rhan 1 yn cynnwys darpariaethau rhagarweiniol.

Mae Rhan 2 yn darparu i denant atgyfeirio cais i'w gymrodeddu neu, drwy gytundeb ysgrifenedig â'r landlord, am benderfyniad gan drydydd parti pan fo cydsyniad y landlord neu amrywiad i delerau contract tenantiaeth daliad amaethyddol o dan Ddeddf 1986 yn ofynnol naill ai i alluogi tenant i ofyn am gynhorthwy ariannol perthnasol neu i wneud cais am gynhorthwy o'r fath o dan Ddeddf Amaethyddiaeth (Cymru) 2023 (dsc 4) fel y'i diffinnir yn rheoliad 2 neu er mwyn cyflawni dyletswydd statudol.

Mae rheoliad 3 yn nodi cwmpas y ceisiadau y caniateir eu gwneud o dan y Rhan hon, y gofynion y mae rhaid eu bodloni cyn y gellir gwneud cais a'r wybodaeth y mae rhaid ei chynnwys mewn hysbysiad ffurfiol i'r landlord fod cais am gymrodeddu yn cael ei wneud.

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about the resolution of disputes in relation to landlord's consent and variations to the terms of a contract of tenancy of an agricultural holding under the Agricultural Holdings Act 1986 (c. 5) ("the 1986 Act") and about applications to succeed to a tenancy of an agricultural holding under the 1986 Act.

Part 1 contains introductory provisions.

Part 2 provides for a tenant to refer a request to arbitration or, by agreement in writing with the landlord, third party determination where a landlord's consent or a variation of the terms of a contract of tenancy of an agricultural holding under the 1986 Act is required either to enable a tenant to request or apply for relevant financial assistance under the Agriculture (Wales) Act 2023 (asc 4) as defined in regulation 2 or in order to meet a statutory duty.

Regulation 3 sets out the scope of requests that may be made under this Part, the requirements that must be met before a request can be made and the information that must be included in a formal notice to the landlord that a request for arbitration is being made.

Mae rheoliad 4 yn darparu y caiff cymrodeddwr neu drydydd parti, wrth ystyried cais, orchymyn i'r landlord gydymffurfio â'r cais, yn llawn neu'n rhannol, neu wneud unrhyw ddyfarniad neu unrhyw benderfyniad y mae'n ystyried ei fod yn rhesymol ac yn gyfiawn rhwng y landlord a'r tenant gan roi sylw i'r holl faterion perthnasol.

Regulation 4 provides that when considering a request, an arbitrator or third party may order the landlord to comply with the request, in full or in part, or make any award or determination they consider reasonable and just between the landlord and tenant having regard to all relevant matters.

Mae rheoliad 4(2) yn darparu ar gyfer ystyriaethau ychwanegol a gaiff ffurfio rhan o'r dyfarniad neu'r penderfyniad gan gynnwys costau, yr adeg pan fydd y dyfarniad neu'r penderfyniad yn cymryd effaith ac unrhyw amodau y mae'r dyfarniad neu'r penderfyniad yn ddarostyngedig iddynt. Mae rheoliad 4(3) yn darparu na chaiff y cymrodeddwr na thrydydd parti wneud dyfarniad na phenderfyniad sy'n amrywio rhent y daliad. Mae rheoliadau 4(4) a 4(5) yn darparu na chaiff y cymrodeddwr na thrydydd parti wneud dyfarniad na phenderfyniad sy'n darparu ar gyfer digolledia ac eithrio i ddarparu bod rhaid diystyru unrhyw gydsyniad neu amrywiad i'r denantiaeth at ddibenion asesu hawliad am ddigolledia a wneir gan landlord o dan adrannau 71 i 73 o Ddeddf 1986. Mae rheoliad 4(6) yn darparu bod unrhyw ddyfarniad neu unrhyw benderfyniad yn cymryd effaith fel pe bai'r telerau a'r darpariaethau ynddo wedi eu cynnwys mewn cytundeb ysgrifenedig yr ymrwymwyd iddo gan y landlord a'r tenant drwy amrywio'r cytundeb a oedd ar waith yn flaenorol mewn cysylltiad â'r denantiaeth o'r adeg y gwnaed y dyfarniad neu'r penderfyniad neu ar unrhyw ddyddiad diweddarach penodedig.

Regulation 4(2) provides for additional considerations that may form part of the award or determination including costs, the time when the award or determination takes effect and any conditions to which the award or determination is subject. Regulation 4(3) provides that the arbitrator or third party must not make an award or determination which varies the rent of the holding. Regulations 4(4) and 4(5) provide that the arbitrator or third party must not make an award or determination which provides for compensation except to provide that any consent or variation to the tenancy must be disregarded for the purposes of assessing a claim for compensation made by a landlord under sections 71 to 73 of the 1986 Act. Regulation 4(6) provides that any award or determination takes effect as if the terms and provisions in it were contained in an agreement in writing entered into by the landlord and tenant by way of variation to the agreement previously in place in respect of the tenancy from the making of the award or determination or at any specified later date.

Mae Rhan 3 yn nodi'r meini prawf y mae rhaid i Dribiwnlys roi sylw iddynt wrth benderfynu cais gan berson ynghylch a yw'n addas i olynu i denantiaeth daliad amaethyddol o dan Ran 4 o Ddeddf 1986 yn dilyn marwolaeth neu ymddeoliad tenant. Mae'n ofynnol i'r Tribiwnlys ystyried yr holl faterion perthnasol ac mae rheoliad 5(2) yn nodi rhestr o rai o'r materion y mae rhaid eu hystyried, gan gynnwys gallu'r person i ffermio'r daliad yn fasnachol, gan ystyried yr angen am safonau uchel o gynhyrchu effeithlon a gofal am yr amgylchedd mewn perthynas â rheoli'r daliad. Mae'n mynd ymlaen i ddarparu, ar ôl ystyried yr holl faterion perthnasol, fod rhaid i'r Tribiwnlys fod wedi ei fodloni pe bai'r ceisydd wedi gwneud cais mewn cystadleuaeth agored am y denantiaeth honno, y gellid disgwyl yn rhesymol i landlord pwyllog a pharod ystyried y ceisydd fel un o'r ymgeiswyr y byddai'n barod i roi'r denantiaeth iddo. Rhaid diystyru pob cynnig o ran rhent mewn cysylltiad â'r daliad ac oedran y ceisydd o dan reoliad 5(3).

Part 3 sets out the criteria which a Tribunal must have regard to when determining an application by a person as to whether they are suitable to succeed to a tenancy of an agricultural holding under Part 4 of the 1986 Act following the death or retirement of a tenant. The Tribunal is required to consider all relevant matters and regulation 5(2) sets out a list of some of the matters which must be taken into account, including the person's capability to farm the holding commercially, taking into account the need for high standards of efficient production and care for the environment in relation to managing the holding. It goes on to provide that, having considered all relevant matters, the Tribunal must be satisfied that if the applicant had applied in an open competition for that tenancy, a prudent and willing landlord could reasonably be expected to regard the applicant as among the candidates to whom they would be willing to grant the tenancy. All offers as to rent in respect of the holding and the age of the applicant must be disregarded under regulation 5(3).

Mae rheoliad 6 yn gwneud darpariaeth drosiannol.

Regulation 6 makes transitional provision.

Mae rheoliad 7 yn darparu ar gyfer adolygiad o'r Rheoliadau hyn erbyn 13 Mehefin 2031 ac ar ysbeidiau heb fod yn hwy na 5 mlynedd wedi hynny.

Regulation 7 provides for a review of these Regulations by 13 June 2031 and at intervals not exceeding 5 years thereafter.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac ar wefan Llywodraeth Cymru ar www.llyw.cymru.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on the Welsh Government website www.gov.wales.

# 2024 Rhif 798 (Cy. 127)

# LANDLORD A THENANT, CYMRU

## Rheoliadau Daliadau Amaethyddol (Ceisiadau am Gydsyniad y Landlord neu Amrywio Telerau a'r Prawf Addasrwydd) (Cymru) 2024

*Gwnaed* *16 Gorffennaf 2024*

*Gosodwyd gerbron Senedd Cymru* *18 Gorffennaf 2024*

*Yn dod i rym yn unol â rheoliad 1(2)*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 19A a 39(8) o Ddeddf Daliadau Amaethyddol 1986(**1**), yn gwneud y Rheoliadau a ganlyn.

## RHAN 1

### Rhagarweiniol

**Enwi, dod i rym a chymhwyso**

**1.**—(1) Enw'r Rheoliadau hyn yw Rheoliadau Daliadau Amaethyddol (Ceisiadau am Gydsyniad y Landlord neu Amrywio Telerau a'r Prawf Addasrwydd) (Cymru) 2024.

(2) Daw'r Rheoliadau hyn i rym—

(a) o ran Rhan 1, Rhan 2 a Rhan 4, ar 8 Awst 2024, a

(b) o ran Rhan 3, ar 1 Medi 2024.

(**1**) 1986 p. 5. Mewnosodwyd adran 19A gan baragraff 7 o Atodlen 3 i Ddeddf Amaethyddiaeth 2020 (p. 21) ac fe'i diwygiwyd gan adran 24 o Ddeddf Amaethyddiaeth (Cymru) 2023 (dsc 4), amnewidiwyd adran 39(8) gan baragraff 17 o'r Atodlen honno.



# 2024 No. 798 (W. 127)

# LANDLORD AND TENANT, WALES

## The Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024

*Made* *16 July 2024*

*Laid before Senedd Cymru* *18 July 2024*

*Coming into force in accordance with regulation 1(2)*

The Welsh Ministers, in exercise of the powers conferred by sections 19A and 39(8) of the Agricultural Holdings Act 1986(**1**), make the following Regulations.

## PART 1

### Introductory

**Title, coming into force, and application**

**1.**—(1) The title of these Regulations is the Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024.

(2) These Regulations come into force—

(a) as regards Part 1, Part 2 and Part 4, on 8 August 2024, and

(b) as regards Part 3, on 1 September 2024.

(**1**) 1986 c. 5. Section 19A was inserted by paragraph 7 of Schedule 3 to the Agriculture Act 2020 (c. 21) and amended by section 24 of the Agriculture (Wales) Act 2023 (asc 4), section 39(8) was substituted by paragraph 17 of that Schedule.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) These Regulations apply in relation to Wales.

# RHAN 2

## Ceisiadau am Gydsyniad y Landlord neu Amrywio Telerau

**Dehongli**

**2.** Yn y Rheoliadau hyn—

ystyr "cynhorthwy ariannol perthnasol" ("*relevant financial assisstance*") yw cynhorthwy ariannol o dan—

(a) adran 8 o Ddeddf Amaethyddiaeth (Cymru) 2023 (pŵer Gweinidogion Cymru i ddarparu cymorth),

(b) cynllun o'r fath a grybwyllir yn adran 9(7) o Ddeddf 2023 (ystyr "cynllun trydydd parti" at ddibenion pŵer i ddarparu cymorth),

(c) cynllun y taliad sylfaenol, fel y'i diffinnir yn adran 16 o Ddeddf 2023 (pŵer i addasu deddfwriaeth sy'n llywodraethu cynllun y taliad sylfaenol),

(d) deddfwriaeth sy'n ymwneud ag ariannu, rheoli a monitro'r polisi amaethyddol cyffredin, fel y'i diffinnir yn adran 17 o Ddeddf 2023 (pŵer i addasu deddfwriaeth sy'n ymwneud â'r polisi amaethyddol cyffredin),

(e) deddfwriaeth sy'n ymwneud â chymorth ar gyfer gwenynyddiaeth, fel y'i diffinnir yn adran 18 o Ddeddf 2023 (pŵer i addasu deddfwriaeth sy'n ymwneud â chymorth ar gyfer gwenynyddiaeth),

(f) deddfwriaeth sy'n ymwneud â chymorth ar gyfer datblygu gwledig, fel y'i diffinnir yn adran 19 o Ddeddf 2023 (pŵer i addasu deddfwriaeth sy'n ymwneud â chymorth ar gyfer datblygu gwledig), neu

(g) adran 22 o Ddeddf 2023 (pwerau Gweinidogion Cymru i roi cymorth ariannol pan fo amodau eithriadol yn y farchnad);

mae i "daliad amaethyddol" yr ystyr a roddir i "agricultural holding" yn adran 1 o Ddeddf 1986;

ystyr "Deddf 1986" ("*the 1986 Act*") yw Deddf Daliadau Amaethyddol 1986;

ystyr "Deddf 2023" ("*the 2023 Act*") yw Deddf Amaethyddiaeth (Cymru) 2023(**1**);

# PART 2

## Requests for Landlord's Consent or Variation of Terms

**Interpretation**

**2.** In these Regulations—

"the 1986 Act" ("*Deddf 1986*") means the Agricultural Holdings Act 1986;

"the 2023 Act" ("*Deddf 2023*") means the Agriculture (Wales) Act 2023(**1**);

"agricultural holding" ("*daliad amaethyddol*") has the meaning given in section 1 of the 1986 Act;

"landlord" ("*landlord*") has the meaning given in section 96(1) of the 1986 Act;

"relevant financial assistance" ("*cynhorthwy ariannol perthnasol*") means financial assistance under—

(a) section 8 of the Agriculture (Wales) Act 2023 (Welsh Ministers' power to provide support),

(b) a scheme of the sort mentioned in section 9(7) of the 2023 Act (meaning of "third party scheme" for purposes of the power to provide support),

(c) the basic payment scheme, as defined in section 16 of the 2023 Act (power to modify legislation governing the basic payment scheme),

(d) legislation relating to the financing, management and monitoring of the common agricultural policy, as defined in section 17 of the 2023 Act (power to modify legislation relating to the common agricultural policy),

(e) legislation relating to support for apiculture, as defined in section 18 of the 2023 Act (power to modify legislation relating to support for apiculture),

(f) legislation relating to support for rural development, as defined in section 19 of the 2023 Act (support for rural development), or

(g) section 22 of the 2023 Act (powers of Welsh Ministers to give financial support in exceptional market conditions);

(**1**) 2023 dsc 4.

(**1**) 2023 asc 4.

ystyr “dyletswydd statudol” (“*statutory duty*”) yw dyletswydd a osodir gan neu o dan—

(a) Deddf gan Senedd y Deyrnas Unedig,

(b) Deddf gan Senedd Cymru neu Fesur gan Gynulliad Cymru, neu

(c) deddfwriaeth uniongyrchol a gymhathwyd;

mae i “landlord” yr ystyr a roddir i “landlord” yn adran 96(1) o Ddeddf 1986;

mae i “penderfyniad gan drydydd parti” yr ystyr a roddir i “third party determination” yn adran 96(1) o Ddeddf 1986;

mae i “tenant” yr ystyr a roddir i “tenant” yn adran 96(1) o Ddeddf 1986;

mae i “Tribiwnlys” yr ystyr a roddir i “Tribunal” yn adran 96(1) o Ddeddf 1986.

“statutory duty" (“*dyletswydd statudol*”) means a duty imposed by or under—

(a) an Act of Parliament,

(b) an Act of Senedd Cymru or an Assembly Measure, or

(c) assimilated direct legislation;

“tenant” (“*tenant*”) has the meaning given in section 96(1) of the 1986 Act;

“third party determination” (“*penderfyniad gan drydydd parti*”) has the meaning given in section 96(1) of the 1986 Act;

“Tribunal” (“*Tribiwnlys*”) has the meaning given in section 96(1) of the 1986 Act.

**Cais am gydsyniad y landlord neu amrywio telerau**

**3.**—(1) Caiff tenant daliad amaethyddol atgyfeirio cais cymwys i’w gymrodeddu o dan Ddeddf 1986.

(2) Yn y Rhan hon, cais cymwys yw cais sy’n bodloni’r amodau a ganlyn—

(a) mae’n gais am—

(i) cydsyniad y landlord i fater y mae cydsyniad o’r fath yn ofynnol ar ei gyfer o dan delerau’r denantiaeth, neu

(ii) amrywiad i delerau’r denantiaeth;

(b) mae’n cael ei wneud at ddibenion—

(i) galluogi tenant i ofyn am gynhorthwy ariannol perthnasol neu i wneud cais am gynhorthwy o’r fath, neu

(ii) cydymffurfio â dyletswydd statudol sy’n gymwys i’r tenant mewn cysylltiad â defnyddio’r daliad;

(c) ni ddaethpwyd i gytundeb â’r landlord ar y cais.

(3) Pan fo gan y tenant yr hawl i atgyfeirio cais i’w gymrodeddu o dan baragraff (1), caiff y landlord a’r tenant yn lle hynny gytuno mewn ysgrifen i atgyfeirio’r cais i’w benderfynu gan drydydd parti o dan Ddeddf 1986.

(4) Ni chaniateir atgyfeirio cais cymwys i’w gymrodeddu o dan baragraff (1) oni bai bod yr amodau a ganlyn wedi eu bodloni—

(a) rhaid i’r tenant fod wedi talu unrhyw rent sy’n ddyledus o dan y denantiaeth y mae’r cais yn ymwneud â hi yn ddarostyngedig i unrhyw gytundeb ysgrifenedig rhwng y landlord a’r tenant i’r gwrthwyneb;

(b) rhaid i’r tenant fod wedi codi’r cais gyda’r landlord mewn ysgrifen;

**Request for landlord’s consent or variation of terms**

**3.**—(1) A tenant of an agricultural holding may refer a qualifying request to arbitration under the 1986 Act.

(2) In this Part, a qualifying request is a request which meets the following conditions—

(a) it is a request for—

(i) the landlord’s consent to a matter which under the terms of the tenancy requires such consent, or

(ii) a variation of the terms of the tenancy;

(b) it is made for the purposes of—

(i) enabling the tenant to request or apply for relevant financial assistance, or

(ii) complying with a statutory duty applicable to the tenant in respect of the use of the holding;

(c) no agreement has been reached with the landlord on the request.

(3) Where the tenant has the right to refer a request to arbitration under paragraph (1), the landlord and tenant may instead agree in writing to refer the request for third party determination under the 1986 Act.

(4) A qualifying request may not be referred to arbitration under paragraph (1) unless the following conditions are met—

(a) the tenant must have paid any rent due under the tenancy to which the request relates subject to any agreement in writing between the landlord and tenant to the contrary;

(b) the tenant must have raised the request in writing with the landlord;

(c) ni chaiff y denantiaeth fod yn destun hysbysiad ymadael dilys o dan Ran 1 o Atodlen 3 i Ddeddf 1986 nac Atodlen 5 iddi, na ellir ei herio gan y tenant mwyach o dan ddarpariaethau'r Ddeddf honno.

(5) I wneud atgyfeiriad am gymrodeddu mewn cysylltiad â chais yn unol â'r rheoliad hwn, rhaid i'r tenant gyflwyno hysbysiad ysgrifenedig i'r landlord, ar ben yr hysbysiad a roddir o dan baragraff (4)(b), yn gofyn am gydsyniad y landlord i fater y mae cydsyniad yn ofynnol ar ei gyfer o dan delerau'r denantiaeth neu i amrywiad i delerau'r denantiaeth.

(6) Rhaid i hysbysiad o dan baragraff (5) gynnwys y canlynol—

(a) manylion y cais sy'n cael ei wneud o dan baragraff (1);

(b) datganiad ynghylch at ba un neu ragor o'r dibenion a ganlyn y mae'r cais yn cael ei wneud—

(i) galluogi tenant i ofyn am gynhorthwy ariannol perthnasol neu i wneud cais am gynhorthwy o'r fath;

(ii) cydymffurfio â dyletswydd statudol sy'n gymwys i'r tenant mewn cysylltiad â defnyddio'r daliad;

(c) pan fo'r cais yn gais am amrywiad i delerau'r denantiaeth—

(i) telerau newydd arfaethedig y denantiaeth, a

(ii) prawf bod yr amrywiad i delerau'r denantiaeth y gofynnir amdano yn cynrychioli'r newid lleiaf sy'n rhesymol angenrheidiol i alluogi'r tenant i ofyn am y cynhorthwy ariannol perthnasol neu i wneud cais am y cynhorthwy hwnnw neu i gyflawni'r ddyletswydd statudol;

(d) pan fo'r cais yn cael ei wneud er mwyn cael mynediad at gynhorthwy ariannol perthnasol—

(i) disgrifiad o'r gweithgareddau y cynigir eu cynnal ar y daliad os caniateir y cais ac os yw unrhyw gais am gynhorthwy ariannol perthnasol yn llwyddiannus, a

(ii) tystiolaeth i gefnogi disgwyliad rhesymol y bydd y tenant yn gymwys i ofyn am gynhorthwy ariannol perthnasol neu i wneud cais am gynhorthwy o'r fath os caniateir y cais;

(e) datganiad bod darpariaethau yn y Rheoliadau hyn y caniateir atgyfeirio ceisiadau odanynt i'w cymrodeddu, neu i'w penderfynu gan drydydd parti, os na fydd cytundeb.

(c) the tenancy must not be the subject of a valid notice to quit under Part 1 of Schedule 3 to, or Schedule 5 to, the 1986 Act, which can no longer be contested by the tenant under the provisions of that Act.

(5) To make a reference for arbitration in respect of a request in accordance with this regulation, the tenant must serve on the landlord a notice in writing, further to that given under paragraph (4)(b), requesting landlord's consent to a matter which under the terms of the tenancy requires consent or to a variation of the terms of the tenancy.

(6) A notice under paragraph (5) must include the following—

(a) details of the request being made under paragraph (1);

(b) a statement as to which of the following purposes the request is being made for—

(i) enabling the tenant to request or apply for relevant financial assistance;

(ii) complying with a statutory duty applicable to the tenant in respect of the use of the holding;

(c) where the request is for a variation of the terms of the tenancy—

(i) the proposed new terms of the tenancy, and

(ii) a demonstration that the requested variation of the terms of the tenancy represents the minimum change that is reasonably necessary to enable the tenant to request or apply for the relevant financial assistance or to meet the statutory duty;

(d) where the request is made in order to access relevant financial assistance—

(i) a description of the activities proposed on the holding if the request is granted and any application for relevant financial assistance is successful, and

(ii) evidence to support a reasonable expectation that the tenant will be eligible to request or apply for relevant financial assistance if the request is granted;

(e) a statement that there are provisions in these Regulations under which requests may be referred to arbitration, or third party determination, in the absence of agreement.

(7) Caiff y cymrodeddwr neu drydydd parti a benodir addasu hysbysiad y tenant wedyn o dan baragraff (5) os yw'n angenrheidiol gwneud hynny, ac os oes cyfiawnhad dros wneud hynny, gan ystyried yr holl amgylchiadau perthnasol.

(8) O fewn y cyfnod o 2 fis ar ôl i'r tenant roi hysbysiad sy'n bodloni'r gofynion ym mharagraff (6), caiff y landlord gyflwyno gwrth-hysbysiad sydd—

(a) yn cydsynio i'r cais,

(b) yn cydsynio i'r cais yn ddarostyngedig i amodau a nodir yn y gwrth-hysbysiad, neu

(c) yn gwrthod y cais.

(9) Caiff y tenant atgyfeirio'r cais i'w gymrodeddu neu, yn ôl y digwydd, i'w benderfynu gan drydydd parti yn unol â pharagraff (3), o fewn y cyfnod o 4 mis ar ôl i hysbysiad y tenant gael ei gyflwyno—

(a) os nad yw'r landlord yn cyflwyno gwrth-hysbysiad;

(b) os yw'r landlord yn cyflwyno gwrth-hysbysiad sy'n cydsynio i'r cais yn ddarostyngedig i amodau nad ydynt yn dderbyniol i'r tenant;

(c) os yw'r landlord yn cyflwyno gwrth-hysbysiad yn gwrthod y cais.

**Dyfarniadau neu benderfyniadau gan y cymrodeddwr neu drydydd parti**

**4.**—(1) Pan wneir atgyfeiriad at gymrodeddwr neu, yn ôl y digwydd, at drydydd parti i benderfynu cais yn unol â rheoliad 3, caiff y cymrodeddwr neu drydydd parti orchymyn i'r landlord gydymffurfio â'r cais (naill ai yn llawn neu i'r graddau a bennir yn y dyfarniad neu'r penderfyniad) neu wneud unrhyw ddyfarniad arall neu unrhyw benderfyniad arall y mae'r cymrodeddwr neu drydydd parti yn ystyried ei fod yn rhesymol ac yn gyfiawn rhwng y landlord a'r tenant.

(2) Fel rhan o unrhyw ddyfarniad neu unrhyw benderfyniad a wneir o dan baragraff (1), caiff y cymrodeddwr neu drydydd parti gynnwys unrhyw ddyfarniadau neu unrhyw benderfyniadau y mae'n ystyried eu bod yn rhesymol ac yn gyfiawn rhwng y landlord a'r tenant mewn cysylltiad ag—

(a) talu costau;

(b) pan wneir cais at ddibenion galluogi'r tenant i ofyn am gynhorthwy ariannol perthnasol neu i wneud cais am gynhorthwy o'r fath, amodau sy'n ymwneud â gwneud cais llwyddiannus;

(7) The arbitrator or third party appointed may subsequently modify the tenant's notice under paragraph (5) if it is necessary and justified to do so taking into consideration all the relevant circumstances.

(8) Within the period of 2 months from the tenant giving a notice which meets the requirements in paragraph (6), the landlord may serve a counter-notice which—

(a) consents to the request,

(b) consents to the request subject to conditions which are set out in the counter-notice, or

(c) refuses the request.

(9) The tenant may refer the request to arbitration or, as the case may be, third party determination in accordance with paragraph (3), within the period of 4 months from the service of the tenant's notice if the landlord—

(a) does not serve a counter-notice;

(b) serves a counter-notice which consents to the request subject to conditions which are not acceptable to the tenant;

(c) serves a counter-notice refusing the request.

**Awards or determinations by the arbitrator or third party**

**4.**—(1) When a reference is made to an arbitrator or, as the case may be, a third party to determine a request in accordance with regulation 3, the arbitrator or third party may order the landlord to comply with the request (either in full or to the extent specified in the award or the determination) or make such other award or determination as the arbitrator or third party considers reasonable and just between the landlord and the tenant.

(2) As part of any award or determination made under paragraph (1), the arbitrator or third party may include such awards or determinations as they consider reasonable and just between the landlord and the tenant in respect of—

(a) the payment of costs;

(b) where a request is made for the purposes of enabling the tenant to request or apply for relevant financial assistance, conditions relating to the making of a successful application;

(c) amodau sy'n cyfyngu ar allu tenant i wneud unrhyw atgyfeiriad dilynol am gymrodeddu neu benderfyniad gan drydydd parti o dan y Rhan hon mewn cysylltiad â'r un cais ac mewn perthynas â'r un denantiaeth;

(d) amodau sy'n ymwneud â materion eraill gan gynnwys yr adeg y mae'r dyfarniad neu'r penderfyniad yn cymryd effaith.

(3) Ni chaiff y cymrodeddwr neu drydydd parti wneud unrhyw ddyfarniad nac unrhyw benderfyniad sy'n cynnwys amrywiad i rent y daliad fel rhan o unrhyw ddyfarniad neu unrhyw benderfyniad a wneir o dan baragraff (1).

(4) Yn ddarostyngedig i baragraff (5), ni chaiff y cymrodeddwr neu drydydd parti wneud unrhyw ddyfarniad nac unrhyw benderfyniad mewn cysylltiad ag unrhyw ddigolledíad sy'n daladwy i'r landlord neu'r tenant fel rhan o unrhyw ddyfarniad neu unrhyw benderfyniad a wneir o dan baragraff (1).

(5) Pan fo dyfarniad neu benderfyniad a wneir o dan baragraff (1) yn ei gwneud yn ofynnol i landlord roi cydsyniad neu'n gosod amrywiad ar y denantiaeth, caiff y cymrodeddwr neu drydydd parti wneud dyfarniad neu benderfyniad bod rhaid diystyru'r cydsyniad neu'r amrywiad at ddibenion asesu hawliad am ddigolledíad a wneir gan y landlord pan fo'r tenant yn ymadael â'r daliad pan ddaw'r denantiaeth i ben o dan adrannau 71 i 73 o Ddeddf 1986 (digolledíad am ddirywiad daliad).

(6) Mae dyfarniad gan gymrodeddwr neu benderfyniad gan drydydd parti o dan y Rhan hon yn cael effaith fel pe bai'r telerau a'r darpariaethau a bennir ac a wneir yn y dyfarniad neu benderfyniad wedi eu cynnwys mewn cytundeb ysgrifenedig yr ymrwymwyd iddo gan y landlord a'r tenant ac sy'n cael effaith (drwy amrywio'r cytundeb a oedd mewn grym yn flaenorol mewn cysylltiad â'r denantiaeth) fel o'r adeg y gwnaed y dyfarniad neu'r penderfyniad neu, os yw'r dyfarniad neu'r penderfyniad yn darparu hynny, o unrhyw ddyddiad diweddarach a bennir.

(c) conditions restricting a tenant's ability to make any subsequent reference to arbitration or third party determination under this Part in respect of the same request and in relation to the same tenancy;

(d) conditions relating to other matters including the time at which the award or determination takes effect.

(3) The arbitrator or third party must not make any award or determination which includes a variation to the rent of the holding as part of any award or determination made under paragraph (1).

(4) Subject to paragraph (5), the arbitrator or third party must not make any award or determination in respect of any compensation payable to the landlord or tenant as part of any award or determination made under paragraph (1).

(5) Where an award or determination made under paragraph (1) requires a landlord to give consent or imposes a variation to the tenancy, the arbitrator or third party may make an award or determination that the consent or variation must be disregarded for the purposes of assessing a claim for compensation made by the landlord on the tenant's quitting the holding on the termination of the tenancy under sections 71 to 73 of the 1986 Act (compensation for deterioration of holding).

(6) The award of an arbitrator or determination of a third party under this Part has effect as if the terms and provisions specified and made in the award or determination were contained in an agreement in writing entered into by the landlord and tenant and having effect (by way of variation of the agreement previously in force in respect of the tenancy) as from the making of the award or determination or, if the award or determination so provides, from such later date as may be specified.

# RHAN 3

## Y Prawf Addasrwydd

### Y Prawf Addasrwydd

**5.**—(1) Mae'r Rhan hon yn gymwys pan fo'r Tribiwnlys yn penderfynu addasrwydd person i ddod yn denant daliad yn achos ceisydd penodol o dan adran 39(2), fel rhwng dau geisydd neu ragor o dan adran 39(6), neu o dan adran 53(5) o Ddeddf 1986.

# PART 3

## The Suitability Test

### The Suitability Test

**5.**—(1) This Part applies where the Tribunal is determining a person's suitability to become the tenant of a holding in the case of a particular applicant under section 39(2), as between two or more applicants under section 39(6), or under section 53(5) of the 1986 Act.

(2) Wrth benderfynu cais o ran a yw person yn addas i ddod yn denant daliad o dan ddarpariaeth y cyfeirir ati ym mharagraff (1), rhaid i'r Tribiwnlys roi sylw i'r holl faterion perthnasol gan gynnwys—

(a) gallu tebygol y person i ffermio'r daliad yn fasnachol, gyda thir arall neu hebddo, gan ystyried yr angen am safonau uchel o gynhyrchu effeithlon a gofal am yr amgylchedd mewn perthynas â rheoli'r daliad hwnnw;

(b) profiad, hyfforddiant a sgiliau'r person ym meysydd amaethyddiaeth a rheoli busnes;

(c) sefyllfa ariannol y person a'i gymeriad;

(d) natur, lleoliad ac ansawdd y daliad;

(e) telerau'r denantiaeth,

ac ar ôl rhoi sylw i'r holl faterion perthnasol, rhaid i'r Tribiwnlys fod wedi ei fodloni, pe bai'r ceisydd wedi gwneud cais mewn cystadleuaeth agored am denantiaeth y daliad hwn, y tybir ei bod ar gael o dan Ddeddf 1986, y gellid disgwyl yn rhesymol i landlord pwyllog a pharod ystyried y ceisydd fel un o'r ymgeiswyr y byddai'n barod i roi'r denantiaeth iddo.

(3) Wrth benderfynu cais o dan baragraff (1), rhaid i'r Tribiwnlys ddiystyru—

(a) pob cynnig o ran rhent mewn perthynas â'r daliad;

(b) oedran y person sy'n gwneud cais.

(2) When determining an application as to whether a person is suitable to become the tenant of a holding under a provision referred to in paragraph (1), the Tribunal must have regard to all relevant matters including—

(a) the person's likely capability to farm the holding commercially, with or without other land, taking into account the need for high standards of efficient production and care for the environment in relation to managing that holding;

(b) the person's experience, training and skills in agriculture and business management;

(c) the person's financial standing and their character;

(d) the character, situation and condition of the holding;

(e) the terms of the tenancy,

and having had regard to all relevant matters, the Tribunal must be satisfied that, if the applicant had applied in an open competition for a tenancy of this holding, that is assumed to be available under the 1986 Act, a prudent and willing landlord could reasonably be expected to regard the applicant as among the candidates to whom they would be willing to grant the tenancy.

(3) When determining an application under paragraph (1), the Tribunal must disregard—

(a) all offers as to rent in relation to the holding;

(b) the age of the person applying.

**Darpariaethau Trosiannol**

**6.**—(1) Mae paragraff (2) yn gymwys i unrhyw gais i'r Tribiwnlys a wneir o dan Ran 4 o Ddeddf 1986 ar ôl 1 Medi 2024 am gyfarwyddyd yn rhoi i'r ceisydd hawlogaeth i denantiaeth daliad amaethyddol ar farwolaeth neu ymddeoliad tenant pan fo dyddiad y farwolaeth neu ddyddiad rhoi'r hysbysiad ymddeol, fel y bo'n gymwys, cyn 1 Medi 2024.

(2) Mewn perthynas ag unrhyw gais y mae'r paragraff hwn yn gymwys iddo, mae darpariaethau Deddf 1986 fel yr oeddent yn cael effaith yn union cyn 1 Medi 2024 yn parhau i fod yn gymwys.

(3) Yn y rheoliad hwn mae "cais" yn cynnwys unrhyw achos sy'n deillio o unrhyw gais o'r fath neu unrhyw gyfarwyddyd a roddir mewn unrhyw achos o'r fath.

**Transitional Provisions**

**6.**—(1) Paragraph (2) applies to any application to the Tribunal made under Part 4 of the 1986 Act after 1 September 2024 for a direction entitling the applicant to a tenancy of an agricultural holding on the death or retirement of a tenant where the date of death or the date of the giving of the retirement notice, as applicable, was before 1 September 2024.

(2) In relation to any application to which this paragraph applies, the provisions of the 1986 Act as they had effect immediately before 1 September 2024 continue to apply.

(3) In this regulation "application" includes any proceedings arising out of any such application or any direction given in any such proceedings.

## RHAN 4

## Adolygiad

**Adolygiad**

**7.**—(1) Rhaid i Weinidogion Cymru o bryd i'w gilydd—

(a) cynnal adolygiad o'r Rheoliadau hyn,

(b) nodi casgliadau'r adolygiad mewn adroddiad, ac

(c) cyhoeddi'r adroddiad.

(2) Rhaid i'r adroddiad cyntaf o dan y rheoliad hwn gael ei gyhoeddi cyn 13 Mehefin 2031.

(3) Rhaid i adroddiadau dilynol o dan y rheoliad hwn gael eu cyhoeddi ar ysbeidiau heb fod yn hwy na phum mlynedd.

## PART 4

## Review

**Review**

**7.**—(1) The Welsh Ministers must from time to time—

(a) carry out a review of these Regulations,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) The first report under this regulation must be published before 13 June 2031.

(3) Subsequent reports under this regulation must be published at intervals not exceeding five years.

*Huw Irranca-Davies*

Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig, un o Weinidogion Cymru
16 Gorffennaf 2024

Cabinet Secretary for Climate Change and Rural Affairs, one of the Welsh Ministers
16 July 2024

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