CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

# 2004 Rhif 699 (Cy.74)

# LANDLORD A THENANT

# Rheoliadau Diwygio Lesddaliad (Rhyddfreinio ac Estyn) (Diwygio) (Cymru) 2004

## NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Diwygio Lesddaliad (Rhyddfreinio ac Estyn) 1967 sy'n pennu'r amodau sy'n llywodraethu'r weithdrefn sydd i'w dilyn wrth roi effaith i hysbysiad o dan Ran I o Ddeddf Diwygio Lesddaliad 1967 ("Deddf 1967"), o ddymuniad tenant i gael rhydd-ddaliad neu brydles estynedig ar dŷ lesddaliad. Bydd y rheoliadau hyn yn gymwys i achosion lle mae cais am ryddfreinio neu estyn les o dan Ddeddf 1967 yn cael ei wneud mewn perthynas â thŷ lesddaliad yng Nghymru ar neu ar ôl y dyddiad y daw'r Rheoliadau i rym.

Mae'r diwygiadau yn digwydd o ganlyniad i ddiwygiadau a wneir i adran 1 o Ddeddf 1967 gan adrannau 138 i 140 o Ddeddf Cyfunddaliad a Diwygio Cyfraith Lesddaliad 2002 ("Deddf 2002") (p.15). Yn ddarostyngedig i ddau eithriad, diddymodd y darpariaethau hyn yn Neddf 2002 y prawf preswylio (a oedd yn ei gwneud yn ofynnol i'r tenant fod wedi meddiannu'r tŷ fel ei unig neu ei brif gartref am y deuddeg mis diwethaf neu am gyfnodau sy'n dod i gyfanswm o dair blynedd yn y deng mlynedd diwethaf) ar gyfer hawliadau am ryddfreinio neu estyn les ac yn lle'r prawf preswylio rhoddodd ofyniad bod y tenant wedi dal y les am ddwy flynedd.

Y ddau eithriad i ddiddymu'r prawf preswylio yw: (i) lle mae'r denantiaeth o dan sylw yn denantiaeth fusnes, a (ii) lle mae fflat sy'n rhan o'r tŷ yn cael ei osod i denant sy'n 'denant cymwys' ar y fflat at ddibenion Pennod 1 neu 2 o Ran I o Ddeddf Diwygio Lesddaliad, Tai a Datblygu Trefol 1993 (p.28). Yn y ddau achos

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

# 2004 No. 699 (W.74)

# LANDLORD AND TENANT

# The Leasehold Reform (Enfranchisement and Extension) (Amendment) (Wales) Regulations 2004

## EXPLANATORY NOTE

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

These Regulations amend the Leasehold Reform (Enfranchisement and Extension) Regulations 1967 which prescribe conditions governing the procedure to be followed in giving effect to a notice, under Part I of the Leasehold Reform Act 1967 ("the 1967 Act"), of a tenant's desire to have the freehold or an extended lease of a leasehold house. These Regulations will apply to cases where an application for enfranchisement or lease extension under the 1967 Act is made in respect of a leasehold house in Wales on or after the date the Regulations come into force.

The amendments are consequential to amendments made to section 1 of the 1967 Act by sections 138 to 140 of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") (c.15). Subject to two exceptions, these provisions of the 2002 Act abolished the residence test (which required the tenant to have occupied the house as an only or principal home for the last twelve months or for periods amounting to three years in the last ten years) for claims for enfranchisement or lease extension and replaced it with a requirement that the tenant has held the lease for two years.

The two exceptions to the abolition of the residence test are: (i) where the tenancy in question is a business tenancy, and (ii) where a flat forming part of the house is let to a tenant who is a 'qualifying tenant' of the flat for the purposes of Chapter 1 or 2 of Part I of the Leasehold Reform, Housing and Urban Development

hyn, er mwyn gwneud cais o dan Ran I o Ddeddf 1967, mae'n rhaid i'r tenant fod wedi byw yn y tŷ fel ei unig neu ei brif gartref am y ddwy flynedd diwethaf neu am gyfnodau sy'n dod i gyfanswm o ddwy flynedd yn y deng mlynedd diwethaf.

Mae Arfarniad Rheoliadol wedi'i baratoi mewn cysylltiad â'r Rheoliadau hyn. Gellir cael copi o'r Gyfarwyddiaeth Dai, Cynulliad Cenedlaethol Cymru, Parc Cathays, Caerdydd, CF10 3NQ (Ffôn 029 20 823025).

Act 1993 (c.28). In both of these cases, to make an application under Part I of the 1967 Act, the tenant must have lived in the house as an only or principal home for the last two years or for periods amounting to two years in the last ten years.

A Regulatory Appraisal has been prepared in connection with these Regulations. A copy may be obtained from the Housing Directorate, the National Assembly for Wales, Cathays Park, Cardiff, CF10 3NQ (Tel 029 20 823025).

# 2004 Rhif 699 (Cy.74)

# LANDLORD A THENANT

## Rheoliadau Diwygio Lesddaliad (Rhyddfreinio ac Estyn) (Diwygio) (Cymru) 2004

| | |
|---|---|
| *Wedi'u gwneud* | *9 Mawrth 2004* |
| *Yn dod i rym* | *31 Mawrth 2004* |

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 22 o Ddeddf Diwygio Lesddaliad 1967(**a**) ac sydd bellach wedi'u breinio yng Nghynulliad Cenedlaethol Cymru(**b**), drwy hyn yn gwneud y Rheoliadau canlynol:

**Enwi a chychwyn**

**1**. Enw'r Rheoliadau hyn yw Rheoliadau Diwygio Lesddaliad (Rhyddfreinio ac Estyn) (Diwygio) (Cymru) 2004 a deuant i rym ar 31 Mawrth 2004.

**Cymhwyso**

**2**. Mae'r Rheoliadau hyn yn gymwys yn unig -

(a) mewn perthynas â thŷ lesddaliad yng Nghymru(**c**);

(b) i achosion lle mae hysbysiad o dan Ran 1 o Ddeddf Diwygio Lesddaliad (hysbysiad tenant o ddymuniad i gael neu i honni bod ganddo hawl i gaffael y rhydd-ddaliad neu les estynedig) ar neu ar ôl y dyddiad y daw'r Rheoliadau hyn i rym.

(a) 1967 p.88. Diwygiwyd adran 22(2) gan Orchymyn Trosglwyddo Swyddogaethau (Yr Arglwydd Ganghellor a'r Ysgrifennydd Gwladol) 1974, O.S.1974/1896.

(b) Trosglwyddwyd pwerau'r Ysgrifennydd Gwladol o dan adran 22(2) o Ddeddf Diwygio Lesddaliad 1967 i Gynulliad Cenedlaethol Cymru yn unol ag erthygl 2(2) o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo.

(c) *Gweler* adran 2 o Ddeddf Diwygio Lesddaliad 1967 p.88 er mwyn cael dehongliad o "house".



# 2004 No. 699 (W.74)

# LANDLORD AND TENANT

## The Leasehold Reform (Enfranchisement and Extension) (Amendment) (Wales) Regulations 2004

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

The National Assembly for Wales, in exercise of the powers conferred on the Secretary of State by section 22(2) of the Leasehold Reform Act 1967(**a**) and now vested in the National Assembly for Wales(**b**), hereby makes the following Regulations:

**Citation and commencement**

**1**. These Regulations may be cited as the Leasehold Reform (Enfranchisement and Extension) (Amendment) (Wales) Regulations 2004 and shall come into force on the 31st March 2004.

**Application**

**2**. These Regulations apply only-

(a) in respect of a leasehold house in Wales(**c**);

(b) to cases where a notice under Part 1 of the Leasehold Reform Act 1967 (tenant's notice of desire to have or claim to be entitled to acquire the freehold or an extended lease) is given on or after the date these Regulations come into force.

(a) 1967 c.88. Section 22(2) was amended by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 1974, S.I.1974/1896.

(b) The powers of the Secretary of State under section 22(2) of the Leasehold Reform Act 1967 were transferred to the National Assembly for Wales pursuant to article 2(2) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(c) *See* section 2 of the Leasehold Reform Act 1967 c.88 for the definition of "house".

**Diwygiadau**

**3**. Diwygir Rheoliadau Diwygio Lesddaliad (Rhyddfreinio ac Estyn) 1967(**a**) fel a ganlyn-

(a) ym mharagraff 2 o Ran 1 o'r Atodlen, ar ôl y geiriau "tenancy and" rhodder ", in a case to which paragraph 2A applies,";

(b) ar ôl y paragraff hwnnw rhodder-

"**2A** This paragraph applies where-

(a) the tenancy in question is a business tenancy; or

(b) a flat forming part of the house is let to a person who is a qualifying tenant for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993,";

(c) ym mharagraff 1 o Ran 2 o'r Atodlen ar ôl y geiriau "tenancy and" rhodder ", in a case to which paragraph 1A applies,";

(d) ar ôl y paragraff hwnnw rhodder-

"**1A** This paragraph applies where-

(a) the tenancy in question is a business tenancy; or

(b) a flat forming part of the house is let to a person who is a qualifying tenant for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.".

**Amendments**

**3**. The Leasehold Reform (Enfranchisement and Extension) Regulations 1967(**a**) shall be amended as follows-

(a) in paragraph 2 of Part 1 of the Schedule, after the words "tenancy and" insert ", in a case to which paragraph 2A applies,";

(b) after that paragraph insert-

"**2A** This paragraph applies where-

(a) the tenancy in question is a business tenancy; or

(b) a flat forming part of the house is let to a person who is a qualifying tenant for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993,";

(c) in paragraph 1 of Part 2 of the Schedule after the words "tenancy and" insert ", in a case to which paragraph 1A applies,";

(d) after that paragraph insert-

"**1A** This paragraph applies where-

(a) the tenancy in question is a business tenancy; or

(b) a flat forming part of the house is let to a person who is a qualifying tenant for the purposes of Chapter 1 or 2 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.".

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(**b**).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**b**).

9 Mawrth 2004

9th March 2004

*John Marek*

Dirprwy Lywydd y Cynulliad Cenedlaethol

The Deputy Presiding Officer of the National Assembly

(a) O.S. 1967/1879, y mae diwygiadau iddo nad ydynt yn gymwys i'r Rheoliadau hyn.

(b) 1998 p.38.

(a) S.I. 1967/1879, to which there are amendments not relevant to these Regulations.

(b) 1998 c.38.

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