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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1357 (W.105)**

**LANDLORD AND TENANT, WALES**

**The Service Charges (Consultation Requirements)  
(Amendment) (Wales) Regulations 2005**

*Made* - - - - - *17 May 2005*  
*Coming into force* - - - - - *31 May 2005*

The National Assembly for Wales makes the following Regulations, in exercise of the powers conferred by sections 20(4) and (5) and 20ZA(3) to (6) of the Landlord and Tenant Act 1985<sup>(1)</sup>, which are now vested in the National Assembly for Wales so far as exercisable in relation to Wales.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Service Charges (Consultation Requirements) (Amendment) (Wales) Regulations 2005 and they shall come into force on 31 May 2005.

(2) These Regulations apply in relation to Wales.

**Amendment of Regulations**

2. Regulation 4 (Application of section 20 to qualifying long term agreements) of the Service Charges (Consultation Requirements) (Wales) Regulations 2004<sup>(2)</sup> is amended —

- (a) in paragraph (3), by the substitution, for “In”, of “Subject to paragraph (3A), in”; and
- (b) by the insertion, after paragraph (3) of the following paragraph -

“(3A) Where a landlord —

- (a) intends to enter into a qualifying long term agreement on or after 31 May 2005; and
- (b) has not at any time between 31 October 2003 and 31 May 2005 made up accounts relating to service charges referable to a qualifying long term agreement and payable in respect of the dwellings to which the intended agreement is to relate,

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(1) 1985 c. 70. Section 20 was substituted, and section 20ZA inserted, by section 151 of the Commonhold and Leasehold Reform Act 2002 (c. 15). See also paragraph 4 of Schedule 7 to that Act for modifications relevant to sections 20 and 20ZA associated with the right to manage under Chapter 1 of Part 2 of that Act. The functions of the Secretary of State under sections 20 and 20ZA are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; see the entry in Schedule 1 for the Landlord and Tenant Act 1985. See also section 177 of the Commonhold and Leasehold Reform Act 2002.

(2) S.I. 2004/684 (W.72).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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the relevant date is the date on which begins the first period for which service charges referable to that intended agreement are payable under the terms of the leases of those dwellings.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3).

17 May 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

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

These Regulations amend regulation 4 (“Regulation 4”) of the Service Charges (Consultation Requirements) (Wales) Regulations 2004. Regulation 4 provides for the application of section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) to certain agreements entered into, by or on behalf of a landlord or superior landlord, for a term of more than twelve months (“qualifying long term agreements”), where relevant costs (defined in section 18(2) of the 1985 Act) incurred under the agreement in any accounting period exceed an amount which results in the relevant contribution of any tenant, in respect of that period, being more than £100. Section 20 of the 1985 Act imposes limitations on the amount of tenants' contributions to service charges in respect of qualifying long term agreements unless the consultation requirements in the Service Charges (Consultation Requirements) (Wales) Regulations 2004 have been complied with or dispensed with by a leasehold valuation tribunal.

The amendments are made by the Regulations and affect any landlord who intends to enter into a qualifying long term agreement on or after 31 May 2005 but only if that person has not previously made up service charge accounts referable to a qualifying long term agreement in respect of the dwellings to which the intended agreement is to relate.

The Regulations modify the operation of paragraph (3) of Regulation 4, which relates to the definition of the term “accounting period” that is used in paragraph (1) of that regulation. Section 20 of the 1985 Act will apply in the circumstances mentioned above if the relevant contribution of any tenant to relevant costs to be incurred under the agreement in the period of twelve months beginning with the relevant date exceed £100. For this purpose, the relevant date is that on which the first period for which service charges are payable by a tenant under a lease of a dwelling to which the intended agreement relates begins. The effect of paragraphs (2) and (4) of Regulation 4 is that each subsequent accounting period will be a period of twelve months beginning as soon as the previous accounting period has ended.