
WELSH STATUTORY INSTRUMENTS

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⁽¹⁾ and now vested in the National Assembly for Wales⁽²⁾, 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⁽³⁾;
 - (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.

Amendments

3. The Leasehold Reform (Enfranchisement and Extension) Regulations 1967⁽⁴⁾ 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,”;

(1) 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.
(2) 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).
(3) See section 2 of the Leasehold Reform Act 1967 c. 88 for the definition of "house".
(4) S.I. 1967/1879, to which there are amendments not relevant to these Regulations.

(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.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5).

9th March 2004

John Marek
The Deputy Presiding Officer of the National
Assembly

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 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).