

2004 No. 1679

HOUSING, ENGLAND

**The Demoted Tenancies (Review of Decisions)(England)
Regulations 2004**

<i>Made</i> - - - -	<i>1st July 2004</i>
<i>Laid before Parliament</i>	<i>8th July 2004</i>
<i>Coming into force</i> - -	<i>30th July 2004</i>

The First Secretary of State, in exercise of the powers conferred upon him by section 143F(3) and (4) of the Housing Act 1996(a), hereby makes the following Regulations:

Citation, commencement, and application

1.—(1) These Regulations may be cited as the Demoted Tenants (Review of Decisions)(England) Regulations 2004 and shall come into force on 30th July 2004.

(2) These Regulations apply in relation to dwelling-houses in England only.

Persons who may carry out reviews

2.—(1) A review under section 143F of the Housing Act 1996 of a decision to seek an order for possession of a dwelling-house let under a demoted tenancy (“the review”) shall be carried out by a person who was not involved in that decision.

(2) Where the review is of a decision made by an officer of the landlord and is to be carried out by another officer, the officer reviewing the decision must occupy a more senior position within the organisation of the landlord.

Notice of review

3. The landlord under the demoted tenancy shall give the tenant not less than five clear days’ notice of the date of the review.

Right to an oral hearing

4.—(1) Where the tenant so requests, the review shall be by way of an oral hearing.

(2) Any such request must be made to the landlord before the end of the period mentioned in subsection (1) of section 143F of the Housing Act 1996 (time permitted for requesting a review).

(a) 1996 c.52; section 143F was inserted by section 14 of and Schedule 1 to the Anti-social Behaviour Act 2003. The functions of the Secretary of State under Part 5 of the Housing Act 1996 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672, to which there are amendments not relevant to these Regulations) and section 17 of the Anti-social Behaviour Act 2003.

(3) If the tenant makes such a request the landlord shall, when giving the tenant notice of the date of the review in accordance with regulation 3, also inform the tenant of the time and place at which the review will be heard.

Written representations

5. Whether or not the review is to be by way of an oral hearing—
- (a) the tenant may make written representations to the landlord in connection with the review;
 - (b) such representations must be received by the landlord not less than two clear days before the date of the review; and
 - (c) the landlord shall consider any such representations which are received by that date.

Review by way of an oral hearing

6.—(1) Where the review is to be by way of an oral hearing, the tenant shall have the right to be heard and to be accompanied or to be represented by another person (whether or not that person is professionally qualified).

- (2) The tenant or his representative may—
- (a) call persons to give evidence at the hearing;
 - (b) put questions to any person who gives evidence at the hearing.

(3) Subject to these Regulations, the procedure in connection with a review by way of an oral hearing shall be such as the person carrying out the review shall determine.

Absence of tenant and representative from hearing

7.—(1) This paragraph applies where notice has been given to the tenant in accordance with regulations 3 and 4(3) and neither the tenant nor his representative appears at the hearing.

(2) Where paragraph (1) applies, the person carrying out the review may, having regard to all the circumstances—

- (a) proceed with the hearing, or
- (b) give such directions with a view to the conduct of the review as he considers appropriate.

Postponement of hearing

8.—(1) The tenant may request the landlord to postpone a hearing of which notice has been given in accordance with regulations 3 and 4(3) and the landlord may grant or refuse the request.

(2) If the hearing is postponed the landlord shall give the tenant reasonable notice of the date, time and place of the postponed hearing.

Adjournment of hearing

9.—(1) A hearing may be adjourned by the person carrying out the review at any time, either on that person's own initiative or at the request of the tenant, his representative or the landlord.

(2) Where more than one person is carrying out the review by way of an oral hearing, the hearing shall be adjourned on each occasion on which any of those persons is absent, unless the tenant or his representative agrees otherwise.

(3) The landlord must give the tenant reasonable notice of the date, time and place of the adjourned hearing.

(4) If the person carrying out the review at the adjourned hearing is not the same person as the person who was carrying out the review at the earlier hearing, the review shall proceed by way of a complete rehearing of the case unless the tenant, or his representative, agrees otherwise.

Signed by authority of the First Secretary of State

1st July 2004

Keith Hill
Minister of State
Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 14 of the Anti-social Behaviour Act 2003 amended Part 4 of the Housing Act 1985 (c.68) to allow a secure tenancy of a local housing authority, a housing action trust or a registered social landlord to be brought to an end and replaced with a less secure demoted tenancy by a demotion order made by a county court. Schedule 1 to the 2003 Act inserted further provisions regarding demoted tenancies as a new Chapter 1A of Part 5 of the Housing Act 1996.

If a landlord wishes to end a demoted tenancy it must serve the tenant with a notice stating that the landlord has decided to apply to the court for an order for possession, setting out the reasons for that decision and informing the tenant of his right to request a review of the decision. These Regulations make provision about the procedure to be followed in such a review.

Regulation 2 provides that a review must be undertaken by a person who was not involved in the original decision. If the original decision was made by an officer then any review of that decision by another officer may only be carried out by an officer occupying a more senior position within the landlord's organisation than the officer who made the original decision.

Regulation 3 requires the landlord to give the tenant notice of the date of the review.

Regulation 4 enables the tenant to obtain an oral hearing in certain circumstances and explains how that right may be exercised.

Regulations 5 to 9 set out the details of the review procedure.

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