



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2006 Rhif 2823 (Cy.246)

2006 No. 2823 (W.246)

TAI, CYMRU

HOUSING, WALES

**Gorchymyn Tai (Gorchmynion
Rheoli Anheddau Gwag)
(Eithriadau a Gofynion
Rhagnodedig) (Cymru) 2006**

**The Housing (Empty Dwelling
Management Orders) (Prescribed
Exceptions and Requirements)
(Wales) Order 2006**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

Mae pennod 2 o Ran 4 o Ddeddf Tai 2004 ("y Ddeddf") yn ymdrin â gwneud gorchmynion rheoli anheddau gwag (GRhAG) interim a rhai terfynol y caniateir i awdurdod tai lleol eu gwneud ynghylch anheddau sy'n gyfan gwbl anfeddianedig.

Chapter 2 of Part 4 of the Housing Act 2004 ("the Act") deals with the making of interim and final empty dwelling management orders (EDMOs) which may be made by a local housing authority in respect of dwellings which are wholly unoccupied.

Mae GRhAG interim yn orchymyn sy'n cael ei wneud gan awdurdod tai lleol i'w alluogi i gymryd camau er mwyn sicrhau bod annedd yn dod, ac yn parhau i fod, yn un sydd wedi'i meddiannu. Gwneir GRhAG terfynol i olynu GRhAG interim er mwyn sicrhau bod annedd yn cael ei meddiannu. (Adran 132 o'r Ddeddf).

An interim EDMO is an order made by a local housing authority to enable it to take steps for the purpose of securing that a dwelling becomes and continues to be occupied. A final EDMO is made in succession to an interim EDMO for the purpose of securing that a dwelling is occupied. (Section 132 of the Act).

Rhaid i awdurdod tai lleol wneud ymdrech resymol i hysbysu'r perchennog perthnasol ei fod yn ystyried gwneud GRhAG interim ac i ganfod pa gamau y mae'r perchennog perthnasol yn eu cymryd, neu'n bwriadu eu cymryd, i sicrhau bod yr eiddo'n cael ei feddiannu. Mae angen awdurdodiad tribiwnlys eiddo preswyl i wneud gorchymyn o'r fath. Ni fydd tribiwnlys eiddo preswyl yn awdurdodi gwneud GRhAG interim os yw wedi'i fodloni bod yr achos yn dod o dan eithriad rhagnodedig. (Adran 133 o'r Ddeddf).

A local housing authority must make reasonable efforts to notify the relevant proprietor that they are considering making an interim EDMO and to ascertain what steps the relevant proprietor is taking, or is intending to take, to secure that the property is occupied. The making of such an order requires the authorisation of a residential property tribunal. A residential property tribunal will not authorise the making of an interim EDMO where it is satisfied that the case falls within a prescribed exception. (Section 133 of the Act).

Mae erthygl 2 o'r Gorchymyn hwn yn rhagnodi'r eithriadau ad ddbenion awdurdodiad tribiwnlys eiddo preswyl.

Article 2 of this Order prescribes the exceptions for the purposes of a residential property tribunal's authorisation.

Mae erthygl 3 o'r Gorchymyn hwn yn rhagnodi'r gofynion ychwanegol y mae'n rhaid i awdurdod tai lleol gydymffurfio â hwy wrth wneud cais i dribiwnlys

Article 3 of this Order prescribes the additional requirements that a local housing authority must comply with when making an application to a

eiddo preswyl am awdurdodi GRhAG interim.

Mae arfarniad rheoliadol wedi'i wneud mewn cysylltiad â'r Gorchymyn hwn ac mae ar gael oddi wrth Uned y Sector Preifat, Yr Adran Cyfiawnder Cymdeithasol ac Adfywio, Llywodraeth Cynulliad Cymru, Parc Cathays, Caerdydd CF10 3NQ, e-bost: housing@wales.gsi.gov.uk

residential property tribunal for authorisation of an interim EDMO.

A regulatory appraisal has been carried out in connection with this Order and is available from the Private Sector Unit, Department for Social Justice and Regeneration, Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ, e-mail: housing@wales.gsi.gov.uk

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Wedi'i wneud 25 Hydref 2006
Yn dod i rym 26 Hydref 2006

Made 25 October 2006
Coming into force 26 October 2006

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 134(5)(a) ac (c) a (6) o Ddeddf Tai 2004(1), drwy hyn yn gwneud y Gorchymyn a ganlyn:

The National Assembly for Wales, in exercise of the powers conferred on it by section 134(5)(a) and (c) and (6) of the Housing Act 2004(1), hereby makes the following Order:

Enwi, cychwyn a chymhwyso**Title, commencement and application**

1.–(1) Enw'r Gorchymyn hwn yw Gorchymyn Tai (Gorchmynion Rheoli Anheddau Gwag) (Eithriadau a Gofynion Rhagnodedig) (Cymru) 2006 a daw i rym ar 26 Hydref 2006.

1.–(1) The title of this Order is the Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (Wales) Order 2006 and it comes into force on 26 October 2006.

(2) Mae'r Gorchymyn hwn yn gymwys yng Nghymru.

(2) This Order applies in Wales.

Dehongli**Interpretation**

2. Yn y Gorchymyn hwn, ystyr "y Ddeddf" ("*the Act*") yw Deddf Tai 2004.

2. In this Order "the Act" ("*y Ddeddf*") means the Housing Act 2004.

Eithriadau rhagnodedig**Prescribed exceptions**

3. At ddibenion adran 134(1)(b) o'r Ddeddf mae annedd yn dod o dan eithriad rhagnodedig –

3. For the purposes of section 134(1)(b) of the Act a dwelling falls within a prescribed exception if –

(a) os yw wedi bod yn feddianedig yn unig neu'n bennaf gan y perchennog perthnasol a'i bod yn gyfan gwbl anfeddianedig am fod y perchennog perthnasol(2) –

(a) it has been occupied solely or principally by the relevant proprietor and is wholly unoccupied because the relevant proprietor(2) –

(1) 2004 p.34. Mae'r pŵer a roddir gan adran 134(5)(a) ac (c) a (6) yn arferadwy, o ran Cymru, gan Gynulliad Cenedlaethol Cymru. *Gweler* y diffiniad o'r "appropriate national authority" yn adran 261(1) o'r Ddeddf.

(2) I gael ystyr "*relevant proprietor*" gweler adran 132 (4)(c) o'r Ddeddf.

(1) 2004 c.34. The power conferred by section 134(5)(a) and (c) and (6) is exercisable, as respects Wales, by the National Assembly for Wales. *See* the definition of the "appropriate national authority" in section 261(1) of the Act.

(2) For the meaning of "*relevant proprietor*" see section 132 (4)(c) of the Act.

- (i) yn preswyllo yn rhywle arall dros dro;
 - (ii) yn absennol o'r annedd er mwyn iddo gael gofal personol oherwydd henaint, anabledd, afiechyd, dibyniaeth ar alcohol neu gyffur yn y gorffennol neu'r presennol neu anhwylder meddyliol yn y gorffennol neu'r presennol;
 - (iii) yn absennol o'r annedd er mwyn darparu gofal personol, neu ei ddarparu'n well, i berson y mae arno angen y gofal hwnnw oherwydd henaint, anabledd, afiechyd, dibyniaeth ar alcohol neu gyffur yn y gorffennol neu'r presennol neu anhwylder meddyliol yn y gorffennol neu'r presennol; neu
 - (iv) yn aelod o'r lluoedd arfog sydd ar wasanaeth ac yn absennol o'r annedd o ganlyniad i wasanaeth o'r fath.
- (b) os yw'n cael ei defnyddio fel cartref gwyliau (p'un a yw'n cael ei gosod fel cartref o'r fath ar sail fasnachol) neu os yw wedi'i meddiannu fel arall gan y perchennog perthnasol neu westeion y perchennog perthnasol ar sail dros dro o bryd i'w gilydd;
 - (c) os yw'n wirioneddol ar y farchnad i'w gwerthu neu i'w gosod;
 - (ch) os yw wedi'i chynnwys mewn daliad amaethyddol o fewn ystyr "*agricultural holding*" yn Neddf Daliadau Amaethyddol 1986(1) neu'n denantiaeth busnes fferm o fewn ystyr "*farm business tenancy*" yn Neddf Tenantiaethau Amaethyddol 1995(2);
 - (d) os yw wedi'i meddiannu fel arfer gan un o gyflogeion y perchennog perthnasol mewn cysylltiad â chyflawni dyletswyddau'r cyflogai o dan delerau contract cyflogi'r cyflogai;
 - (dd) os yw ar gael i'w meddiannu gan weinidog crefydd fel preswylfa i gyflawni dyletswyddau swydd gweinidog crefydd ohoni;
 - (e) os yw'n ddarostyngedig i orchymyn llys yn rhewi eiddo'r perchennog perthnasol;
 - (f) os yw'n cael ei atal rhag cael ei meddiannu o ganlyniad i ymchwiliad troseddol neu achos troseddol;
 - (ff) os yw wedi'i morgeisio, pan fo'r morgeisai, yn hawl y morgais, wedi cymryd meddiant o'r annedd a bod yr annedd yn ei feddiant; neu
 - (g) os yw'r person a oedd yn berchennog perthnasol arno wedi marw a bod chwe mis heb fynd heibio ers cael grant cynrychiolaeth ar ei gyfer.
- (i) is temporarily resident elsewhere;
 - (ii) is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;
 - (iii) is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; or
 - (iv) is a serving member of the armed forces and is absent from the dwelling as a result of such service.
- (b) it is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the relevant proprietor or the relevant proprietor's guests on a temporary basis from time to time;
 - (c) it is genuinely on the market for sale or letting;
 - (d) it is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986(1) or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995(2);
 - (e) it is usually occupied by an employee of the relevant proprietor in connection with the performance of the employee's duties under the terms of the employee's contract of employment;
 - (f) it is available for occupation by a minister of religion as a residence from which to perform the duties of the minister of religion's office;
 - (g) it is subject to a court order freezing the property of the relevant proprietor;
 - (h) it is prevented from being occupied as a result of a criminal investigation or criminal proceedings;
 - (i) it is mortgaged, where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or
 - (j) the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.

(1) 1986 p.5

(2) 1995 p.8

(1) 1986 c.5

(2) 1995 c.8

Gofynion rhagnodedig

4.–(1) At ddibenion adran 134(2)(e) o'r Ddeddf mae'r gofynion rhagnodedig y mae'n rhaid i awdurdod tai lleol gydymffurfio â hwy fel a ganlyn –

- (a) bod rhaid iddo wneud ymdrech resymol i gael cadarnhad gan y perchennog perthnasol a yw hwnnw'n credu bod unrhyw un o'r eithriadau a gynhwysir yn erthygl 3 yn gymwys i'r annedd;
- (b) bod rhaid iddo roi i'r tribiwnlys eiddo preswyl –
 - (i) manylion am yr ymdrech y mae wedi'i gwneud i hysbysu'r perchennog perthnasol ei fod yn ystyried gwneud gorchymyn rheoli anheddau gwag interim ar gyfer annedd y perchennog perthnasol, fel sy'n ofynnol o dan adran 133(3)(a) o'r Ddeddf;
 - (ii) manylion am yr ymholiadau y maent wedi'u gwneud i ganfod pa gamau (os o gwbl) y mae'r perchennog perthnasol yn eu cymryd, neu'n bwriadu eu cymryd, i sicrhau bod yr annedd yn cael ei meddiannu, fel sy'n ofynnol o dan adran 133(3)(b) o'r Ddeddf;
 - (iii) manylion am unrhyw gyngor a chymorth y maent wedi'u rhoi i'r perchennog perthnasol gyda'r bwriad bod y perchennog perthnasol yn sicrhau bod yr annedd yn cael ei meddiannu;
 - (iv) yr holl wybodaeth sydd ganddynt sy'n awgrymu y gall yr annedd ddod o dan un o'r eithriadau a ddisgrifiwyd yn erthygl 3, p'un a ddaeth yr wybodaeth honno ar gael drwy ymholiadau'r awdurdod ei hun neu oherwydd sylwadau a gyflwynwyd iddo gan y perchennog perthnasol; a
 - (v) dosbarthiad yr annedd at ddibenion treth gyngor o dan Ddeddf Cyllid Llywodraeth Leol 1992(1); ac
- (c) pan fo'r perchennog perthnasol –
 - (i) wedi ymgymryd neu wrthi'n ymgymryd â gwaith trwsio, gwaith cynnal a chadw neu waith gwella; neu
 - (ii) wedi gwneud cais i awdurdod cynllunio lleol neu awdurdod arall am ganiatâd i wneud newidiadau i adeiladwaith yr annedd neu ychwanegiadau ati ac yn aros am benderfyniad awdurdod perthnasol ar y cais,

rhaid i awdurdod tai lleol roi i'r tribiwnlys eiddo preswyl resymau pam y mae'n credu bod angen gorchymyn rheoli anheddau gwag i sicrhau meddiannaeth ar yr annedd.

(2) At ddibenion paragraff (1)(c)(ii), awdurdod perthnasol yw –

Prescribed requirements

4.–(1) For the purpose of section 134(2)(e) of the Act the prescribed requirements with which a local housing authority must comply are that –

- (a) it must make reasonable efforts to establish from the relevant proprietor whether the relevant proprietor considers that any of the exceptions contained in article 3 apply to the dwelling;
- (b) it must provide to the residential property tribunal –
 - (i) details of the efforts they have made to notify the relevant proprietor that they are considering making an interim empty dwelling management order in respect of the relevant proprietor's dwelling, as required under section 133(3)(a) of the Act;
 - (ii) details of the enquiries they have made to ascertain what steps (if any) the relevant proprietor is taking, or is intending to take, to secure that the dwelling is occupied, as required under section 133(3)(b) of the Act;
 - (iii) details of any advice and assistance they have provided to the relevant proprietor with a view to the relevant proprietor securing that the dwelling is occupied;
 - (iv) all information they have that suggests that the dwelling may fall within one of the exceptions described in article 3, whether available from the authority's own enquiries or from representations made to it by the relevant proprietor; and
 - (v) the classification of the dwelling for council tax purposes under the Local Government Finance Act 1992(1); and
- (c) where the relevant proprietor –
 - (i) has undertaken or is undertaking repairs, maintenance or improvement works; or
 - (ii) has applied to a local planning authority or other authority for permission to make structural alterations or additions to the dwelling and awaits the decision of a relevant authority on the application,

a local housing authority must give reasons to the residential property tribunal why it considers that an empty dwelling management order is required to secure occupation of the dwelling.

(2) For the purpose of paragraph (1)(c)(ii) a relevant authority is –

- (a) yr awdurdod y mae'r perchennog perthnasol wedi gwneud y cais iddo; neu,
- (b) pan fo'r awdurdod hwnnw wedi gwneud penderfyniad y mae'r perchennog perthnasol neu berson arall wedi apelio yn ei erbyn, y person neu'r corff sy'n penderfynu'r apêl.

- (a) the authority to whom the relevant proprietor has made the application; or,
- (b) where that authority has made a decision against which the relevant proprietor or another person has appealed, the person or body that determines the appeal.

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

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

25 Hydref 2006

25 October 2006

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

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