



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2006 Rhif 2824 (Cy.247)

2006 No. 2824 (W.247)

TAI, CYMRU

HOUSING, WALES

**Gorchymyn Trwyddedu Dethol Tai
(Esemptiadau Penodedig) (Cymru)
2006**

**The Selective Licensing of Houses
(Specified Exemptions) (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'r Gorchymyn hwn yn pennu'r disgrifiadau o denantiaethau a thrwyddedau tai, neu o denantiaethau a thrwyddedau anheddau sydd wedi'u cynnwys mewn tai, a'r rheini'n denantiaethau esempt neu'n drwyddedau esempt at ddibenion Rhan 3 o Ddeddf Tai 2004 ("y Ddeddf"). Effaith yr esemptiad yw nad yw Rhan 3 o'r Ddeddf yn gymwys i dai yng Nghymru sy'n ddarostyngedig i denantiaeth neu drwydded a ddisgrifir yn erthygl 2 ac nad ydynt felly yn ddarostyngedig i'r gofynion trwyddedu a ddisgrifir yn adran 85 o'r Ddeddf.

This Order specifies the descriptions of tenancies and licences of houses, or of dwellings contained in houses, that are exempt tenancies or licences for the purposes of Part 3 of the Housing Act 2004 ("the Act"). The effect of the exemption is that Part 3 of the Act does not apply to houses in Wales that are subject to a tenancy or licence described in article 2 and they are not, therefore, subject to the licensing requirements described in section 85 of the Act.

Mae arfarniad rheoliadol o'r effaith a fydd gan y Gorchymyn hwn ar gael oddi wrth yr Uned Sector Preifat, yr Adran Cyfiawnder Cymdeithasol ac Adfywio, Cynulliad Cenedlaethol Cymru, Parc Cathays, Caerdydd CF10 3NQ (ffôn 02920 825111; e-bost: HousingIntranet@wales.gsi.gov.uk).

A regulatory appraisal of the effects that this order will have is available from the Private Sector Unit, Department of Social Justice and Regeneration, National Assembly for Wales, Cathays Park, Cardiff CF10 3NQ (tel. 02920825111; email HousingIntranet@wales.gsi.gov.uk).

2006 Rhif 2824 (Cy.247)**2006 No. 2824 (W.247)****TAI, CYMRU****HOUSING, WALES****Gorchymyn Trwyddedu Dethol Tai
(Esemptiadau Penodedig) (Cymru)
2006****The Selective Licensing of Houses
(Specified Exemptions) (Wales)
Order 2006**

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 79(4) o Ddeddf Tai 2004(1), yn gwneud y Gorchymyn a ganlyn:

The National Assembly for Wales, in exercise of the powers conferred on it by section 79(4) of the Housing Act 2004(1), makes the following Order:

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

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Trwyddedu Dethol Tai (Esemptiadau Penodedig) (Cymru) 2006 a daw i rym ar 26 Hydref 2006.

1.-(1) The title of this Order is the Selective Licensing of Houses (Specified Exemptions) (Wales) Order 2006 and it comes into force on 26 October 2006.

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

(2) This Order applies to houses(2) in Wales.

Tenantiaethau esempt neu drwyddedau esempt at ddibenion Rhan 3 o Ddeddf Tai 2004**Exempt tenancies or licences for the purposes of Part 3 of the Housing Act 2004**

2.-(1) Mae tenantiaeth neu drwydded tŷ neu annedd sydd wedi'i chynnwys mewn tŷ yn denantiaeth esempt neu'n drwydded esempt at ddibenion Rhan 3 o Ddeddf Tai 2004 ("y Ddeddf") os yw'n dod o dan unrhyw un o'r disgrifiadau canlynol -

2.-(1) A tenancy or licence of a house or a dwelling contained in a house is an exempt tenancy or licence for the purposes of Part 3 of the Housing Act 2004 ("the Act") if it falls within any of the following descriptions -

- (a) tenantiaeth neu drwydded tŷ neu annedd sy'n ddarostyngedig i orchymyn gwahardd a wnaed o dan adran 20 o'r Ddeddf ac nad yw ei weithredu wedi'i atal yn unol ag adran 23 o'r Ddeddf;
- (b) tenantiaeth a ddisgrifir yn unrhyw un o ddarpariaethau canlynol Rhan 1 o Atodlen 1 i Ddeddf Tai 1988(3) ac na all fod yn denantiaeth sicr yn rhinwedd adran 1(2) o'r Ddeddf honno -

- (a) a tenancy or licence of a house or dwelling that is subject to a prohibition order made under section 20 of the Act whose operation has not been suspended in accordance with section 23 of the Act;
- (b) a tenancy described in any of the following provisions of Part 1 of Schedule 1 to the Housing Act 1988(3), which cannot be an assured tenancy by virtue of section 1(2) of that Act -

(1) 2004 p. 34. Mae'r pwerau a roddwyd gan adran 79(4) o'r Ddeddf yn arferadwy o ran Cymru gan Gynulliad Cenedlaethol Cymru. Gweler y diffiniad o'r "appropriate national authority" yn adran 261(1).

(1) 2004 c. 34. The powers conferred by section 79(4) of the Act are exercisable as respects Wales by the National Assembly for Wales. See the definition of "the appropriate national authority" in section 261(1).

(2) Am ystyr "house" gweler adran 99 o'r Ddeddf.

(2) For the meaning of "house" see section 99 of the Act.

(3) 1988 p. 50.

(3) 1988 c. 50.

- (i) paragraff 4 (tenantiaethau busnes);
 - (ii) paragraff 5 (mangreodd trwyddedig)(1);
 - (iii) paragraff 6 (tenantiaethau tir amaethyddol); neu
 - (iv) paragraff 7 (tenantiaethau daliadau amaethyddol(2) etc.);
- (c) tenantiaeth neu drwydded tŷ neu annedd a reolir neu a lywir gan -
- (i) awdurdod tai lleol;
 - (ii) awdurdod heddlu a sefydlwyd o dan adran 3 o Ddeddf Heddlu 1996(3);
 - (iii) awdurdod tân ac achub o dan Ddeddf Gwasanaethau Tân ac Achub 2004(4); neu
 - (iv) corff gwasanaeth iechyd o fewn ystyr "health service body" yn adran 4 o Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990(5);
- (ch) tenantiaeth neu drwydded tŷ nad yw'n dŷ mewn amlfeddiannaeth at unrhyw un o ddibenion y Ddeddf (ac eithrio Rhan 1) yn rhinwedd -
- (v) paragraff 3 o Atodlen 14 i'r Ddeddf (adeiladau a reoleiddir heblaw o dan y Ddeddf); neu
 - (vi) paragraff 4(1) o'r Atodlen honno (adeiladau sydd wedi'u meddiannu gan fyfyrwyr)(6);
- (d) tenantiaeth tŷ neu annedd -
- (i) pan fo tymor llawn y denantiaeth yn fwy nag 21 o flynyddoedd;
 - (ii) pan na fo'r brydles yn cynnwys darpariaeth sy'n galluogi'r landlord i terfynu'r denantiaeth, ac eithrio drwy ei fforffedu, yn gynharach na diwedd y tymor; a
 - (iii) pan fo'r tŷ wedi'i feddiannu neu'r annedd wedi'i meddiannu gan berson y rhoddyd y denantiaeth iddo neu i olynydd y person hwnnw yn y teitl neu unrhyw aelodau o deulu'r person hwnnw;
- (dd) tenantiaeth neu drwydded tŷ neu annedd a roddwyd gan berson i berson sy'n aelod o deulu'r person cyntaf hwnnw -
- (i) paragraph 4 (business tenancies);
 - (ii) paragraph 5 (licensed premises)(1);
 - (iii) paragraph 6 (tenancies of agricultural land); or
 - (iv) paragraph 7 (tenancies of agricultural holdings(2) etc.);
- (c) a tenancy or licence of a house or a dwelling that is managed or controlled by -
- (i) a local housing authority;
 - (ii) a police authority established under section 3 of the Police Act 1996(3);
 - (iii) a fire and rescue authority under the Fire and Rescue Services Act 2004(4); or
 - (iv) a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990(5);
- (d) a tenancy or licence of a house which is not a house in multiple occupation for any purposes of the Act (except Part 1) by virtue of -
- (i) paragraph 3 of Schedule 14 to the Act (buildings regulated otherwise than under the Act); or
 - (ii) paragraph 4(1) of that Schedule (buildings occupied by students)(6);
- (e) a tenancy of a house or a dwelling where -
- (i) the full term of the tenancy is more than 21 years;
 - (ii) the lease does not contain a provision enabling the landlord to determine the tenancy, other than by forfeiture, earlier than at end of the term; and
 - (iii) the house or dwelling is occupied by a person to whom the tenancy was granted or that person's successor in title or any members of such person's family;
- (f) a tenancy or licence of a house or a dwelling granted by a person to a person who is a member of that person's family where -

(1) Mae paragraff 5 o Ran 1 o Atodlen 1 i Ddeddf Tai 1988 wedi'i ddiwygio gan adran 198(1) o Ddeddf Trwyddedu 2003 a paragraff 108 o Atodlen 6 iddi (p. 17).

(2) Mae paragraff 7 o Ran 1 o Atodlen 1 i Ddeddf Tai 1988 wedi'i ddiwygio gan adran 40 o Ddeddf Tenantiaethau Amaethyddol 1995 a paragraff 34 o Atodlen 6 iddi (p. 8).

(3) 1996 p. 16.

(4) 2004 p. 21.

(5) 1990 p. 19.

(6) *Gweler* adran 254(5) o'r Ddeddf.

(1) Paragraph 5 of Part 1 of Schedule 1 to the Housing Act 1988 has been amended by section 198(1) and paragraph 108 of Schedule 6 to the Licensing Act 2003 (c. 17).

(2) Paragraph 7 of Part 1 of Schedule 1 to the Housing Act 1988 has been amended by section 40 and paragraph 34 of the Schedule to the Agricultural Tenancies Act 1995 (c. 8).

(3) 1996 c. 16.

(4) 2004 c.21.

(5) 1990 c. 19.

(6) *See* section 254(5) of the Act.

- (i) pan fo'r person y mae'r denantiaeth neu'r drwydded wedi'i rhoi iddo yn meddiannu'r tŷ neu'r annedd fel ei unig neu brif breswylfan;
 - (ii) pan fo'r person sy'n rhoi'r denantiaeth neu'r drwydded yn rhydd-ddeiliad neu ddeiliad prydles ar y tŷ neu'r annedd nad yw ei thymor llawn yn hwy nag 21 o flynyddoedd; a
 - (iii) pan na fo'r brydles y cyfeiriwyd ati yn is-baragraff (ii) yn cynnwys darpariaeth sy'n galluogi'r landlord i terfynu'r denantiaeth, ac eithrio drwy ei fforffedu, yn gynharach na diwedd y tymor;
- (e) tenantiaeth neu drwydded a roddir i berson mewn perthynas â meddiannaeth y person hwnnw ar dŷ neu annedd fel cartref gwyliau; neu
 - (f) tenantiaeth neu drwydded y mae'r meddiannydd yn rhannu unrhyw lety sydd o dan ei thelerau â'r landlord neu'r trwyddedwr neu aelod o deulu'r landlord neu deulu'r trwyddedwr.
- (2) At ddibenion yr erthygl hon -
- (a) mae person yn aelod o'r un teulu â pherson arall -
 - (i) os yw'r personau hynny'n byw fel cwpl;
 - (ii) os yw'r naill ohonynt yn berthynas i'r llall; neu
 - (iii) os yw'r naill yn un aelod o gwpl, neu'n berthynas i'r aelod hwnnw, a'r llall yn berthynas i aelod arall y cwpl;
 - (b) ystyr "cwpl" ("*couple*") yw dau berson sy'n briod â'i gilydd neu'n byw gyda'i gilydd fel gwr a gwraig (neu mewn perthynas gyfatebol yn achos personau o'r un rhyw);
 - (c) ystyr "perthynas" ("*relative*") yw rhiant, taid neu nain (tad-cu neu fam-gu), plentyn, wyr neu wyres, brawd, chwaer, ewythr, modryb, nai, nith, neu gefnder neu gyfnither;
 - (ch) mae perthynas hanner gwaed i'w drin fel perthynas gwaed coch cyfan;
 - (d) mae llysbentyn person i'w drin fel plentyn y person hwnnw;
 - (dd) mae meddiannydd yn rhannu llety â pherson arall os yw'r meddiannydd yn cael defnyddio amwynder yn gyffredin â'r person hwnnw (p'un ai'n gyffredin ag eraill hefyd ai peidio); ac
 - (e) mae "amwynder" ("*amenity*") yn cynnwys toiled, cyfleusterau ymolchi personol, cegin neu ystafell fyw ond nid yw'n cynnwys unrhyw fan a ddefnyddir i storio, grisiau, coridor, neu fynedfa arall.
- (i) the person to whom the tenancy or licence is granted occupies the house or dwelling as that person's only or main residence;
 - (ii) the person granting the tenancy or licence is the freeholder or the holder of a lease of the house or dwelling the full term of which is more than 21 years; and
 - (iii) the lease referred to in sub-paragraph (ii) does not contain a provision enabling the landlord to determine the tenancy, other than by forfeiture, earlier than at end of the term;
- (g) a tenancy or licence that is granted to a person in relation to that person's occupancy of a house or a dwelling as a holiday home; or
 - (h) a tenancy or licence under the terms of which the occupier shares any accommodation with the landlord or licensor or a member of the landlord's or licensor's family.
- (2) For the purposes of this article -
- (a) a person is a member of the same family as another person if -
 - (i) those persons live as a couple;
 - (ii) one of them is the relative of the other; or
 - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple;
 - (b) "couple" ("*couple*") means two persons who are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
 - (c) "relative" ("*relative*") means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
 - (d) a relationship of the half-blood is to be treated as a relationship of the whole blood;
 - (e) a stepchild of a person is to be treated as that person's child;
 - (f) an occupier shares accommodation with another person if the occupier has the use of an amenity in common with that person (whether or not also in common with others); and
 - (g) "amenity" ("*amenity*") includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access.

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

OFFERYNNAU STATUDOL

2006 Rhif 2824 (Cy.247)

TAI, CYMRU

Gorchymyn Trwyddedu Dethol Tai
(Esemptiadau Penodedig) (Cymru)
2006

STATUTORY INSTRUMENTS

2006 No. 2824 (W.247)

HOUSING, WALES

The Selective Licensing of Houses
(Specified Exemptions) (Wales)
Order 2006

©© Hawlfraint y Goron 2006

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

© Crown copyright 2006

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£3.00

W408/11/06

ON