



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2014 Rhif 3278 (Cy. 335)

2014 No. 3278 (W. 335)

TAI, CYMRU

HOUSING, WALES

Rheoliadau Tenantiaethau Diogel
(Sail Absoliwt ar gyfer Meddiannu
am Ymddygiad
Gwrthgymdeithasol) (Y Weithdrefn
Adolygu) (Cymru) 2014

The Secure Tenancies (Absolute
Ground for Possession for Anti-
Social Behaviour) (Review
Procedure) (Wales) Regulations
2014

NODYN ESBONIADOL

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

Mae adran 84A o Ddeddf Tai 1985 ("y Ddeddf") yn darparu ar gyfer sail absoliwt newydd ar gyfer meddiannu annedd sy'n destun tenantiaeth ddiogel am ymddygiad gwrthgymdeithasol. Mae adran 85ZA o'r Ddeddf yn darparu hawl i denantiaid diogel awdurdodau tai lleol ac ymddiriedolaethau gweithredu tai wneud cais am adolygu penderfyniad landlord i geisio meddiant o dan adran 84A. Rhaid i'r landlord adolygu'r penderfyniad os yw'r tenant yn gwneud cais am hynny.

Mae adran 85ZA yn pennu sut y dylid gwneud ceisiadau, y terfynau amser sy'n gymwys i'r weithdrefn adolygu a sut y dylid cyfathrebu canlyniad yr adolygiad i'r tenant. Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch y weithdrefn sydd i'w dilyn mewn cysylltiad ag adolygiad o'r fath.

Mae rheoliad 2 yn nodi'r wybodaeth y mae'n rhaid ei chynnwys mewn cais gan denant am adolygiad. Mae rheoliad 3 yn pennu, pan fo cais yn cynnwys datganiad i'r perwyl bod ceisydd yn ei gwneud yn ofynnol i'r adolygiad gael ei gynnal ar ffurf gwrandawriad llafar, fod yn rhaid cynnal yr adolygiad yn unol â rheoliadau 6 i 10. Mewn unrhyw achos arall, rhaid cynnal yr adolygiad yn unol â rheoliad 5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 84A of the Housing Act 1985 ("the Act") provides for a new, absolute, anti-social behaviour ground for possession of a dwelling that is the subject of a secure tenancy. Section 85ZA of the Act provides secure tenants of local housing authorities and housing action trusts with a right to request a review of a landlord's decision to seek possession under section 84A. The landlord must review the decision if the tenant requests it.

Section 85ZA specifies how requests should be made, the time limits that apply to the review procedure and how the outcome of the review should be communicated to the tenant. These Regulations make provision about the procedure to be followed in connection with such a review.

Regulation 2 sets out the information that must be included in a tenant's application for a review. Regulation 3 specifies that where an application includes a statement to the effect that the applicant requires the review to be conducted by way of an oral hearing, the review must be conducted in accordance with regulations 6 to 10. In any other case, the review must be conducted in accordance with regulation 5.

Ni luniwyd asesiad effaith rheoleiddiol llawn ar gyfer yr offeryn hwn, gan na ragwelir y bydd yr offeryn yn effeithio o gwbl ar y sector preifat na'r sector gwirfoddol. Mae'r Rheoliadau hyn yn ymwneud â gweithredu Rhan 5 o Ddeddf Ymddygiad Gwrthgymdeithasol, Troseddu a Phlisma 2014. Yn ogystal â chynnal Asesiad Effaith cyffredinol ar gyfer y Ddeddf gyfan, mae'r Swyddfa Gartref wedi cynnal Asesiad Effaith ar gyfer y Rhan honno ac fe'i cyhoeddwyd ar wefan y Swyddfa Gartref yn <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. These Regulations relate to the implementation of Part 5 of the Anti-social Behaviour, Crime and Policing Act 2014. An Impact Assessment relating to that Part as well as an overarching Impact Assessment of the whole Act has been carried out by the Home Office and is published on the Home Office's website. <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>.

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Gwnaed 9 Rhagfyr 2014

Made 9 December 2014

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 12 Rhagfyr 2014

*Laid before the National Assembly for
Wales* 12 December 2014

Yn dod i rym 12 Ionawr 2015

Coming into force 12 January 2015

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddwyd iddynt gan adran 85ZA(8) o Ddeddf Tai 1985(1).

The Welsh Ministers make the following Regulations in exercise of the power conferred on them by section 85ZA(8) of the Housing Act 1985(1).

Enwi, cychwyn, cymhwyso a dehongli

Title, commencement, application and interpretation

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Tenantiaethau Diogel (Sail Absoliwt ar gyfer Meddiannu am Ymddygiad Gwrthgymdeithasol) (Y Weithdrefn Adolygu) (Cymru) 2014, a deuant i rym ar 12 Ionawr 2015.

1.—(1) The title of these Regulations is the Secure Tenancies (Absolute Ground for Possession for Anti-social Behaviour) (Review Procedure) (Wales) Regulations 2014 and they come into force on 12 January 2015.

(2) Mae'r Rheoliadau hyn yn gymwys o ran tai annedd yng Nghymru.

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

(3) Yn y Rheoliadau hyn—

(3) In these Regulations—

ystyr “adolygiad” (“*review*”) yw adolygiad o dan adran 85ZA o'r Ddeddf (adolygu penderfyniad i geisio meddiannu ar sail absoliwt am ymddygiad gwrthgymdeithasol);

“the Act” (“*y Ddeddf*”) means the Housing Act 1985;

ystyr “cais” (“*application*”) yw'r cais ysgrifenedig am adolygiad;

“applicant” (“*ceisydd*”) means a tenant who has requested a review;

ystyr “ceisydd” (“*applicant*”) yw tenant sydd wedi gwneud cais am adolygiad;

“application” (“*cais*”) means the written request for a review;

“business day” (“*diwrnod busnes*”) means any day other than a Saturday, Sunday, Christmas Day,

(1) 1985 p. 68; mewnosodwyd adran 85ZA gan adran 96 o Ddeddf Ymddygiad Gwrthgymdeithasol, Troseddau a Phlismaona 2014 (p. 12) a ddaeth i rym o ran Cymru ar 21 Hydref 2014.

(1) 1985 c. 68; section 85ZA was inserted by section 96 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) which came into force in relation to Wales on 21 October 2014.

ystyr “diwrnod busnes” (“*business day*”) yw unrhyw ddiwrnod nad yw’n ddydd Sadwrn, yn ddydd Sul, yn Ddydd Nadolig, yn Ddydd Gwener y Grogllith nac yn ddiwrnod sy’n wyl y banc yng Nghymru o dan Ddeddf Bancio a Thrafodion Ariannol 1971(1);

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Tai 1985;

ystyr “penderfyniad gwreiddiol” (“*original decision*”) yw penderfyniad landlord i geisio gorchymyn meddiannu tŷ annedd o dan adran 84A o’r Ddeddf(2) (sail absoliwt ar gyfer meddiannu am ymddygiad gwrthgymdeithasol).

Cais am adolygiad

2. Rhaid i gais am adolygiad gynnwys—
- (a) enw a chyfeiriad y ceisydd;
 - (b) disgrifiad o’r penderfyniad gwreiddiol y ceisir adolygiad mewn cysylltiad ag ef gan gynnwys y dyddiad y gwnaed y penderfyniad;
 - (c) datganiad o’r seiliau y gwneir cais am adolygiad arnynt;
 - (d) datganiad i’r perwyl bod y ceisydd, neu nad yw’r ceisydd, yn ei gwneud yn ofynnol i’r adolygiad gael ei gynnal ar ffurf gwrandawriad llafar; ac
 - (e) datganiad i’r perwyl bod y ceisydd, neu nad yw’r ceisydd, yn cytuno i gael cyfathrebiadau sy’n ymwneud â’r adolygiad drwy e-bost, ac os yw’n cytuno i hynny, y cyfeiriad e-bost y dylid anfon y cyfryw gyfathrebiadau iddo.

Hawl i wrandawriad

3.—(1) Pan fo cais yn cynnwys datganiad i’r perwyl bod y ceisydd yn ei gwneud yn ofynnol i’r adolygiad gael ei gynnal ar ffurf gwrandawriad llafar, rhaid cynnal yr adolygiad yn unol â rheoliadau 6 i 10.

(2) Mewn unrhyw achos arall, rhaid cynnal yr adolygiad yn unol â rheoliad 5.

Good Friday, or day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971(1);

“original decision” (“*penderfyniad gwreiddiol*”) means a landlord’s decision to seek an order for possession of a dwelling-house under section 84A of the Act(2) (absolute ground for possession for anti-social behaviour);

“review” (“*adolygiad*”) means a review under section 85ZA of the Act (review of decision to seek possession on absolute ground for anti-social behaviour).

Application for review

2. An application for a review must include—
- (a) the applicant’s name and address;
 - (b) a description of the original decision in respect of which the review is sought including the date on which the decision was made;
 - (c) a statement of the grounds on which the review is sought;
 - (d) a statement to the effect that the applicant does, or does not, require the review to be conducted by way of an oral hearing; and
 - (e) a statement to the effect that the applicant does, or does not, agree to receive communications relating to the review by email, and if the former, the email address to which such communications should be sent.

Right to a hearing

3.—(1) Where an application includes a statement to the effect that the applicant requires the review to be conducted by way of an oral hearing, the review must be conducted in accordance with regulations 6 to 10.

(2) In any other case, the review must be conducted in accordance with regulation 5.

(1) 1971 p. 80.

(2) Mewnosodwyd adran 84A gan adran 94(1) o Ddeddf Ymddygiad Gwrthgymdeithasol, Troseddu a Phlisma 2014 (p. 12).

(1) 1971 c. 80.

(2) Section 84A was inserted by section 94(1) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

Cyfathrebu

4.—(1) Pan fo cais yn cynnwys datganiad i'r perwyl bod y ceisydd yn cytuno i gael cyfathrebiadau sy'n ymwneud â'r adolygiad drwy e-bost, mae unrhyw hysbysiad, dogfen neu gyfathrebiad arall a anfonir mewn cysylltiad â'r adolygiad gan y landlord i'r cyfeiriad e-bost y cyfeirir ato yn rheoliad 2(e) i gael ei ystyried fel pe bai'r ceisydd wedi ei gael ar y diwrnod yr anfonwyd y cyfathrebiad i'r cyfeiriad e-bost hwnnw.

(2) Mewn unrhyw achos arall, mae hysbysiad, dogfen neu gyfathrebiad arall a anfonir mewn cysylltiad â'r adolygiad gan y landlord at y ceisydd i gael ei ystyried fel pe bai'r ceisydd wedi ei gael ar—

- (a) y diwrnod y caiff ei roi i'r ceisydd yn bersonol;
- (b) yr ail ddiwrnod busnes ar ôl ei anfon drwy'r post dosbarth cyntaf i'r cyfeiriad y cyfeirir ato yn rheoliad 2(a); neu
- (c) y diwrnod y caiff ei roi â llaw yn y cyfeiriad y cyfeirir ato yn rheoliad 2(a).

Adolygiad heb wrandawriad

5.—(1) Pan fo rheoliad 3(2) yn gymwys, rhaid i'r landlord anfon hysbysiad ysgrifenedig at y ceisydd gan nodi y caiff y ceisydd wneud sylwadau ysgrifenedig i gefnogi'r cais cyn amser a bennir yn yr hysbysiad.

(2) Rhaid i'r amser a bennir yn unol â pharagraff (1) beidio â bod yn gynharach na deng niwrnod ar ôl y diwrnod y mae'r ceisydd yn cael yr hysbysiad y cyfeirir ato yn y paragraff hwnnw.

(3) Wrth wneud penderfyniad ar yr adolygiad, rhaid i'r person sy'n cynnal yr adolygiad gymryd i ystyriaeth unrhyw sylwadau a geir yn unol â pharagraff (1).

(4) Rhaid i'r adolygiad gael ei gynnal gan berson a benodir at y diben hwnnw gan y landlord, a gaiff fod yn swyddog neu'n gyflogai i'r landlord.

(5) Rhaid i berson a benodir o dan baragraff (4) sy'n swyddog neu'n gyflogai i'r landlord fod yn berson â safle uwch na'r person a wnaeth y penderfyniad gwreiddiol.

(6) Rhaid i berson y cyfeirir ato ym mharagraff (4) beidio â bod yn berson a oedd yn rhan o wneud y penderfyniad gwreiddiol.

Adolygiad ar ffurf gwrandawriad

6.—(1) Pan fo rheoliad 3(1) yn gymwys, rhaid i'r landlord anfon hysbysiad ysgrifenedig at y ceisydd gan nodi dyddiad, amser a lleoliad y gwrandawriad llafar.

Communication

4.—(1) Where an application includes a statement to the effect that the applicant agrees to receive communications relating to the review by email, any notice, document or other communication sent in connection with the review by the landlord to the email address referred to in regulation 2(e) is to be taken as having been received by the applicant on the day on which it was sent to that email address.

(2) In any other case, a notice, document or other communication sent in connection with the review by the landlord to the applicant is to be taken as having been received by the applicant on—

- (a) the day it is given to the applicant in person;
- (b) the second business day after it is sent by first class post to the address referred to in regulation 2(a); or
- (c) the day it is delivered by hand to the address referred to in regulation 2(a).

Review without a hearing

5.—(1) Where regulation 3(2) applies, the landlord must send a written notice to the applicant stating that the applicant may make written representations in support of the application before a time specified in the notice.

(2) The time specified pursuant to paragraph (1) must not be earlier than ten days after the day on which the notice referred to in that paragraph is received by the applicant.

(3) In making a decision on the review the person conducting the review must take into account any representations received in accordance with paragraph (1).

(4) The review must be conducted by a person appointed for that purpose by the landlord, who may be an officer or employee of the landlord.

(5) A person appointed under paragraph (4) who is an officer or an employee of the landlord must be a person of greater seniority than the person who made the original decision.

(6) The person referred to in paragraph (4) must not be a person who was involved in the making of the original decision.

Review by way of hearing

6.—(1) Where regulation 3(1) applies, the landlord must send a written notice to the applicant stating the date, time and place of the oral hearing.

(2) Rhaid i'r dyddiad y cyfeirir ato ym mharagraff (1) beidio â bod yn gynharach na deng niwrnod ar ôl y diwrnod y mae'r ceisydd yn cael yr hysbysiad y cyfeirir ato yn y paragraff hwnnw.

(3) Os yw'r ceisydd yn gwneud cais i ohirio'r gwrandawriad ar unrhyw adeg cyn y dyddiad y mae'r gwrandawriad i fod digwydd, caiff y landlord ohirio'r gwrandawriad hyd ddyddiad diweddarach.

Y weithdrefn mewn gwrandawriad

7.—(1) Rhaid i'r gwrandawriad gael ei gynnal gan berson a benodir gan y landlord at y diben hwnnw, a gaiff fod yn swyddog neu'n gyflogai i'r landlord.

(2) Rhaid i berson a benodir o dan baragraff (1) sy'n swyddog neu'n gyflogai i'r landlord fod yn berson â safle uwch na'r person a wnaeth y penderfyniad gwreiddiol.

(3) Rhaid i'r person y cyfeirir ato ym mharagraff (1) beidio â bod yn berson a oedd yn rhan o wneud y penderfyniad gwreiddiol.

(4) Rhaid cynnal y gwrandawriad ar ffurf mor anffurfiol â phosibl ac yn unol ag unrhyw gyfarwyddydau a roddir gan y person sy'n cynnal y gwrandawriad.

(5) Yn y gwrandawriad caiff y ceisydd—

- (a) gwneud sylwadau llafar neu ysgrifenedig sy'n berthnasol i'r penderfyniad sydd i'w wneud ar yr adolygiad;
- (b) bod gyda pherson arall neu gael ei gynrychioli gan berson arall a benodir gan y ceisydd at y diben hwnnw (pa un a yw'r person hwnnw wedi ei gymhwyso'n broffesiynol ai peidio);
- (c) galw personau i roi tystiolaeth ar unrhyw fater sy'n berthnasol i'r penderfyniad sydd i gael ei wneud ar yr adolygiad; a
- (d) gofyn cwestiynau i unrhyw berson sy'n rhoi tystiolaeth yn y gwrandawriad.

(6) Caiff y person a wnaeth y penderfyniad gwreiddiol fynd i'r gwrandawriad a chaiff wneud unrhyw un neu ragor o'r pethau y caiff y ceisydd eu gwneud yn unol â pharagraff (5).

(7) Mae gan berson a benodir yn gynrychiolydd yn unol â pharagraff (5)(b) yr un hawliau â'r ceisydd (neu, yn ôl y digwydd, y person a wnaeth y penderfyniad gwreiddiol) at ddibenion cynnal y gwrandawriad.

(2) The date referred to in paragraph (1) must not be earlier than ten days after the day on which the notice referred to in that paragraph is received by the applicant.

(3) If at any time before the date on which the hearing is due to take place the applicant so requests, the landlord may postpone the hearing to a later date.

Procedure at hearing

7.—(1) The hearing must be conducted by a person appointed for that purpose by the landlord, who may be an officer or employee of the landlord.

(2) A person appointed under paragraph (1) who is an officer or employee of the landlord must be a person of greater seniority than the person who made the original decision.

(3) The person referred to in paragraph (1) must not be a person who was involved in the making of the original decision.

(4) The hearing must be conducted with the minimum amount of formality and in accordance with any directions given by the person conducting it.

(5) At the hearing the applicant may—

- (a) make oral or written representations relevant to the decision to be made on the review;
- (b) be accompanied or represented by another person appointed by the applicant for the purpose (whether that person is professionally qualified or not);
- (c) call persons to give evidence on any matter relevant to the decision to be made on the review; and
- (d) put questions to any person who gives evidence at the hearing.

(6) The person who made the original decision may attend the hearing and may do any of the things the applicant may do pursuant to paragraph (5).

(7) A person appointed as a representative pursuant to paragraph (5)(b) has the same rights as the applicant (or, as the case may be, the person who made the original decision) for the purposes of the conduct of the hearing.

Absenoldeb ceisydd mewn gwrandawriad

8. Os yw'r ceisydd yn methu â mynd i'r gwrandawriad, caiff y person sy'n cynnal y gwrandawriad, gan roi sylw i'r holl amgylchiadau (gan gynnwys unrhyw esboniad a gynigir am yr absenoldeb), barhau â'r gwrandawriad neu roi'r cyfryw gyfarwyddydau o ran bwrw ymlaen ymhellach â'r adolygiad sy'n briodol yn ei farn ef.

Gohirio gwrandawriad ar ôl cychwyn

9.—(1) Caniateir i'r gwrandawriad gael ei ohirio ar ôl cychwyn gan y person sy'n ei gynnal (ar gais y ceisydd neu fel arall).

(2) Pan fo'r gwrandawriad yn cael ei ohirio ar ôl cychwyn am fwy nag un diwrnod, rhaid i'r person sy'n cynnal y gwrandawriad bennu'r dyddiad y mae'r gwrandawriad i aildechrau drwy anfon hysbysiad ysgrifenedig i'r perwyl hwnnw at y ceisydd ac unrhyw berson arall y mae ei bresenoldeb yn ofynnol yn y gwrandawriad ar ôl iddo aildechrau.

Penderfynu ar adolygiad

10. Pan fo rheoliad 3(1) yn gymwys, rhaid i'r penderfyniad ar yr adolygiad gael ei wneud gan y person a gynhaliodd y gwrandawriad.

Absence of applicant at hearing

8. If the applicant fails to attend the hearing, the person conducting it may, having regard to all the circumstances (including any explanation offered for the absence) proceed with the hearing or give such directions with a view to the further conduct of the review as that person may think appropriate.

Adjournment of hearing

9.—(1) The hearing may be adjourned by the person conducting it (on the application of the applicant or otherwise).

(2) Where the hearing is adjourned for more than one day, the person conducting it must specify a date on which the hearing is to be resumed by sending notice in writing to that effect to the applicant and any other person whose attendance is required at the resumed hearing.

Decision on review

10. Where regulation 3(1) applies, the decision on the review must be made by the person who conducted the hearing.

Lesley Griffiths

Y Gweinidog Cymunedau a Threchu Tlodi, un o Weinidogion Cymru

9 Rhagfyr 2014

Minister for Communities and Tackling Poverty, one of the Welsh Ministers

9 December 2014

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