
WELSH STATUTORY INSTRUMENTS

2024 No. 797 (W. 126)

LANDLORD AND TENANT, WALES

**The Agricultural Tenancies (Requests for Landlord's
Consent or Variation of Terms) (Wales) Regulations 2024**

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| <i>Made</i> | - - - - | <i>16 July 2024</i> |
| <i>Laid before Senedd Cymru</i> | | <i>18 July 2024</i> |
| <i>Coming into force</i> | - - | <i>8 August 2024</i> |

The Welsh Ministers, in exercise of the powers conferred by section 8A(7) of the Agricultural Tenancies Act 1995⁽¹⁾, make the following Regulations.

PART 1

Introductory

Title and coming into force

1.—(1) The title of these Regulations is the Agricultural Tenancies (Requests for Landlord's Consent or Variation of Terms) (Wales) Regulations 2024.

(2) These Regulations come into force on 8 August 2024.

PART 2

Requests for Landlord's Consent or Variation of Terms

Interpretation

2. In these Regulations—

“the 1995 Act” (“*Deddf 1995*”) means the Agricultural Tenancies Act 1995;

“the 2023 Act” (“*Deddf 2023*”) means the Agriculture (Wales) Act 2023⁽²⁾;

(1) 1995 c. 8.
(2) 2023 asc. 4.

“farm business tenancy” (“*tenantiaeth busnes fferm*”) has the meaning given in section 1 of the 1995 Act;

“holding” (“*daliad*”) has the meaning given in section 38 of the 1995 Act;

“landlord” (“*landlord*”) has the meaning given in section 38 of the 1995 Act;

“relevant financial support” (“*cymorth ariannol perthnasol*”) means financial support under—

- (a) section 8 of the Agriculture (Wales) Act 2023 (Welsh Ministers’ power to provide support),
- (b) a scheme of the sort mentioned in section 9(7) of the 2023 Act (meaning of “third party scheme” for purposes of power to provide support),
- (c) the basic payment scheme, as defined in section 16 of the 2023 Act (power to modify legislation governing the basic payment scheme),
- (d) legislation relating to the financing, management and monitoring of the common agricultural policy, as defined in section 17 of the 2023 Act (power to modify legislation relating to the common agricultural policy),
- (e) legislation relating to support for apiculture, as defined in section 18 of the 2023 Act (power to modify legislation relating to support for apiculture),
- (f) legislation relating to support for rural development, as defined in section 19 of the 2023 Act (power to modify legislation relating to support for rural development), or
- (g) section 22 of the 2023 Act (powers of Welsh Ministers to give financial assistance in exceptional market conditions);

“statutory duty” (“*dyletswydd statudol*”) means a duty imposed by or under—

- (a) an Act of Parliament,
- (b) an Act of Senedd Cymru or an Assembly Measure, or
- (c) retained direct EU legislation;

“tenancy” (“*tenantiaeth*”) has the meaning given in section 38 of the 1995 Act;

“tenant” (“*tenant*”) has the meaning given in section 38 of the 1995 Act.

Request for landlord’s consent or variation of terms

3.—(1) A tenant of a farm business tenancy may refer a qualifying request to arbitration under the 1995 Act.

(2) In this Part, a qualifying request is a request which meets the following conditions—

- (a) it is a request for—
 - (i) the landlord’s consent to a matter which under the terms of the tenancy requires such consent, or
 - (ii) a variation of the terms of the tenancy;
- (b) it is made for the purposes of—
 - (i) enabling the tenant to request or apply for relevant financial support, or
 - (ii) complying with a statutory duty applicable to the tenant;
- (c) no agreement has been reached with the landlord on the request.

(3) A qualifying request may not be referred to arbitration under paragraph (1) unless the following conditions are met—

- (a) the tenant must have paid any rent due under the tenancy to which the request relates subject to any agreement in writing between the landlord and tenant to the contrary;

- (b) the tenant must have raised the request in writing with the landlord;
 - (c) the tenancy must not be subject of a valid notice to quit under sections 5 to 7 of the 1995 Act which can no longer be contested by the tenant under the provisions of that Act.
- (4) To make a reference for arbitration in respect of a request in accordance with this regulation, the tenant must serve on the landlord a notice in writing, further to that given under paragraph (3) (b), requesting landlord's consent to a matter which under the terms of the tenancy requires consent or to a variation of the terms of the tenancy.
- (5) A notice under paragraph (4) must include the following—
- (a) details of the request being made under paragraph (1);
 - (b) a statement as to which of the following purposes the request is being made for—
 - (i) enabling the tenant to request or apply for relevant financial support;
 - (ii) complying with a statutory duty applicable to the tenant;
 - (c) where the request is for a variation of the terms of the tenancy—
 - (i) the proposed new terms of the tenancy, and
 - (ii) a demonstration that the requested variation of the terms of the tenancy represents the minimum change that is reasonably necessary to enable the tenant to request or apply for the relevant financial support or to meet the statutory duty;
 - (d) where the request is made in order to access relevant financial support—
 - (i) a description of the activities proposed on the holding if the request is granted and any application for relevant financial support is successful, and
 - (ii) evidence to support a reasonable expectation that the tenant will be eligible to request or apply for relevant financial support if the request is granted;
 - (e) a statement that there are provisions in these Regulations under which requests may be referred to arbitration in the absence of agreement.
- (6) The arbitrator appointed may subsequently modify the tenant's notice under paragraph (4) if it is necessary and justified to do so taking into consideration all the relevant circumstances.
- (7) Within the period of 2 months from the tenant giving a notice which meets the requirements in paragraph (5), the landlord may serve a counter-notice which—
- (a) consents to the request,
 - (b) consents to the request subject to conditions which are set out in the counter-notice, or
 - (c) refuses the request.
- (8) The tenant may refer the request to arbitration within the period of 2 months from the service of the tenant's notice if the landlord—
- (a) does not serve a counter-notice;
 - (b) serves a counter-notice which consents to the request subject to conditions which are not acceptable to the tenant;
 - (c) serves a counter-notice refusing the request.

Awards or determinations by the arbitrator

4.—(1) When a reference is made to an arbitrator to determine a request in accordance with regulation 3, the arbitrator may order the landlord to comply with the request (either in full or to the extent specified in the award or the determination) or make such other award or determination as the arbitrator considers reasonable and just between the landlord and the tenant.

(2) As part of any award or determination made under paragraph (1), the arbitrator may include such awards or determinations as they consider reasonable and just between the landlord and the tenant in respect of—

- (a) the payment of costs;
- (b) where a request is made for the purposes of enabling the tenant to request or apply for relevant financial support, conditions relating to the making of a successful application;
- (c) conditions restricting a tenant's ability to make any subsequent reference to arbitration under this Part in respect of the same request and in relation to the same tenancy;
- (d) conditions relating to other matters including the time at which the award takes effect.

(3) The arbitrator must not make any award or determination which includes a variation to the rent of the holding as part of any award or determination made under paragraph (1).

(4) The arbitrator must not make any award or determination in respect of any compensation payable to the landlord or tenant as part of any award or determination made under paragraph (1).

(5) The award or determination of an arbitrator under this Part has effect as if the terms and provisions specified and made in the award or determination were contained in an agreement in writing entered into by the landlord and tenant and having effect (by way of variation of the agreement previously in force in respect of the tenancy) as from the making of the award or determination or, if the award or determination so provides, from such later date as may be specified.

PART 3

Review

Review

5.—(1) The Welsh Ministers must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The first report under this regulation must be published before 13 June 2031.

(3) Subsequent reports under this regulation must be published at intervals not exceeding five years.

16 July 2024

Huw Irranca-Davies
Cabinet Secretary for Climate Change and Rural
Affairs, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the resolution of disputes in relation to landlord's consent and variations to the terms of a contract of tenancy of a farm business tenancy under the Agricultural Tenancies Act 1995 (c. 8) ("the 1995 Act").

Part 1 contains introductory provisions.

Part 2 provides for a tenant to refer a request to arbitration where a landlord's consent or a variation of the terms of a contract of tenancy of a farm business tenancy under the 1995 Act is required either to enable a tenant to request or apply for relevant financial support under the Agriculture (Wales) Act 2023 (asc 4) as defined in regulation 2 or in order to meet a statutory duty.

Regulation 3 sets out the scope of requests that may be made under this Part, the requirements that must be met before a request can be made and the information that must be included in a formal notice to the landlord that a request for arbitration is being made.

Regulation 4 provides that when considering a request, an arbitrator may order the landlord to comply with the request, in full or in part, or make any award or determination they consider reasonable and just between the landlord and tenant.

Regulation 4(5) provides that any award or determination takes effect as if the terms and provisions in it were contained in an agreement in writing entered into by the landlord and tenant by way of variation of the agreement previously in place in respect of the tenancy from the making of the award or determination or at any specified later date.

Regulation 5 provides for a review of these Regulations by 13 June 2031 and at intervals not exceeding 5 years thereafter.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on the Welsh Government website www.gov.wales.