

REGULATORY APPRAISAL

HOUSING, WALES

THE INTRODUCTORY TENANCIES (REVIEW OF DECISIONS TO EXTEND A TRIAL PERIOD) (WALES) REGULATIONS 2006

Background

1. The Housing Act 2004 (Commencement No.2) (Wales) Order 2005 brought into force various provisions of the Housing Act 2004 on 25 November 2005. This included the provision under Section 179, which amended the Housing Act 1996 by inserting new sections 125A and 125B, which allow an introductory tenancy to be extended by up to six months.
2. The Regulations set out the procedures to be followed by social landlords where a tenant requests the landlord to review its decision to extend an introductory tenancy. Introductory Tenancies are offered by some local authority landlords to new tenants. If a landlord chooses to adopt an introductory tenancy scheme, it must be applied to all new tenants. After the introductory period of one year, if a tenancy is deemed to have been conducted satisfactorily, it will automatically become secure. If it has not, the tenant can be evicted without the landlord having to prove grounds.
3. Since 25 November 2005, Regulations have been in place for local authority landlords to extend introductory tenancies by a further 6 months where the tenancy has not been conducted satisfactorily during the 12 month introductory period. This gives local authority landlords more time to assess and monitor the conduct of the introductory tenants and the effects of any measures it has taken to address or curb the misconduct before considering possession action. It also serves as a warning to tenants as to the seriousness of the situation and to give them the opportunity to amend their conduct or run the risk of losing their home.

Purpose and intended effect of the measure

4. Section 179 of the Housing Act 2004, which was commenced in Wales on 25 November 2005, added sections 125A and 125B into the Housing Act 1996. Section 125A allows a local authority to extend an introductory tenancy by six months where certain conditions are met (e.g. the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date, a notice of extension must set out the reasons for the landlord's decision), and section 125B allows tenants to request a review of a decision to extend the trial period. Section 125B(3) sets out the procedures to be followed in connection with this kind of review.
5. These powers apply to introductory tenancies granted on or after 25 November 2005. The trial period for an introductory tenancy is one year, unless extended. Therefore, these Regulations may be applied in Wales to reviews of decisions to extend the trial period from a date, which is on or after 25 November 2006. The Landlord's notice to extend the

introductory tenancy must be served to the tenant at least eight weeks before the original expiry date of the trial period.

6. The Regulations make provision in respect of the review procedures, they provide for:
- an introductory tenant to be entitled to request an oral hearing and how this right should be exercised;
 - the landlord to give the tenant notice of review;
 - the review to be conducted by a person who was not involved in the original decision. If the person conducting the review and the person who made the original decision are both officers of the landlord, the person carrying out the review must be senior;
 - written representations to be made at the review and the procedure to be followed; and
 - the procedures to be followed during a review by way of an oral hearing.

Risk Assessment

7. If these Regulations are not made the risk would be that tenants might not have a full hearing upon appeal against the extension of their introductory tenancies. These Regulations will ensure consistent good practice regarding social landlord procedures to review their decision to extend introductory tenancies and increased protection of tenants' rights.

Options

Option 1: Do Nothing

8. If these Regulations are not made tenants will not have a prescribed review process to follow when wishing to appeal against a decision to extend the trial period of their introductory tenancy.

Option 2: Make the Legislation

9. Landlords may decide to extend an introductory tenancy granted on or after 25 November 2005 for a further six months. Therefore, these Regulations are needed to ensure that tenants wishing to appeal against a decision to extend the trial period are assured of a prescribed review process that is set out in law.

Benefits

10. These Regulations will ensure consistent good practice regarding social landlord procedures to review their decision to extend introductory tenancies and increased protection of tenants' rights.

Costs

11. There are no related capital or revenue programme expenditure for the Assembly arising from the implementation of these Regulations.
12. The cost involved with the review procedure is currently unknown and is dependent upon how many reviews are requested. Also it is currently

unclear what the cost of each review will be as it will be dependent upon factors such as the number of local authority staff involved in each review, the cost of room hire (if applicable) and the variation in salary scales between local authority staff. The review procedure is broadly similar to those already prescribed for other landlord decisions in the Housing Act 1996. These costs will be met from local authorities' existing budgets.

Consultation

With Stakeholders

13. There has been no specific consultation with stakeholders in relation to these Regulations because:

- they arise from the commencement of newly enacted primary legislation; and
- the Housing Act 1996 created introductory tenancies and section 179 of the 2004 Act introduced new introductory tenancy provisions by inserting sections 125A and 125B into the Housing Act 1996. Section 125A allows local authority landlords to extend the period of an introductory tenancy by six months.

14. This policy has been well publicised and forms part of the Anti-Social Behaviour measures in the 2004 Housing Act. Therefore, it was considered that consultation was not required.

15. However, the Welsh Assembly Government notified all local authorities in Wales on 1 December 2005 of the provisions contained in section 179 and that it came into force on 25 November 2005. The letter explained that these Regulations would be required in order to give effect to section 179 and would be introduced at a later date. There were no responses or queries received from the local authorities in respect of this letter.

With Subject Committee

16. These Regulations were notified to the Social Justice and Regeneration Committee, via the list of forthcoming legislation on 23 February 2005 (SJR-03-05(p.5) Annex 2) and have remained on the list ever since. However, at that time the legislation was identified as Section 179 extension of introductory tenancies.

17. The Minister for Social Justice and Regeneration wrote to the Chair of the Committee on 1 September 2005 and 7 June 2006 regarding these Regulations. In addition, I provided up-dates on progress of the Regulations through standard reports to the Committee. No comments were made by Assembly Members as a result of issuing these letters or further to my reports to Committee.

18. Members of the Social Justice and Regeneration Committee were provided with a copy of the draft Statutory Instrument on 18 August 2006

for information. There were no queries raised or comments made by Committee Members in respect of this correspondence.

Review

19. Once these Regulations are in place, the Welsh Assembly Government may monitor its application under the regulatory regime for Local Authorities and Housing Associations.

Summary

20. These Regulations are an essential element of the powers that local authorities have to extend introductory tenancies. They set out the review procedure to be followed in cases where tenants wish to appeal against their local authority landlord's decision to extend the trial period.