

The Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004

The purpose of these Regulations is to amend the procedural arrangements for Leasehold Valuation Tribunals following the changes to primary legislation made by the Commonhold and Leasehold Reform Act 2002.

Standing Order 11.5

The following points have been identified for reporting under SO 11.5 as minor drafting defects mainly in the form of discrepancies between the Welsh and English language texts..

1. In regulation 4(2), the English text provides:

On receipt of the notice under paragraph (1) the respondent shall give notice of the application to any person not already notified under that paragraph, who the respondent knows, or has reason to believe, is likely to be affected by any variation specified in the application.

whilst the Welsh reads:

Wrth gael hysbysiad o dan baragraff (1) rhaid i'r atebydd roi hysbysiad o'r cais i unrhyw berson nad yw eisoes wedi'i hysbysu o dan y paragraff hwnnw, y mae'r atebydd yn ei adnabod, neu sydd â rheswm dros gredu, ei fod yn debygol o gael ei effeithio gan unrhyw amrywiad a bennir yn y cais.

It is considered that the expression “*y mae'r atebydd yn ei adnabod, neu sydd â rheswm dros gredu, ei fod yn debygol...*” does not accurately reflect the meaning in English. It is not the person that is known to the respondent, but the fact that that person is likely to be affected by any variation. Accordingly the Welsh should read “*y mae'r atebydd yn gwybod, neu y mae ganddo reswm dros gredu, ei fod yn debygol ...*”

2. Paragraph 11(4)(a) of the Welsh text is the reverse of the English. The tribunal may dismiss the application without having heard from the applicant if he or she has not asked to appear before the tribunal before the specified date. Accordingly the Welsh text should read “*onid yw'r ceisydd yn methu a gofyn...*”. It would have been easier to ensure consistency if the initial English text of 11(4) had started “The application may only be dismissed if...”

3. The Welsh text of paragraph 13(4) starts with “*Pan ofynnir am rhywbeth o dan baragraff (3)...*”. It is considered that the use of “*rhywbeth*” (something) is insufficiently precise. Because of the use of the verb structure (“*ofynnir am*”) in the Welsh as opposed to the noun (“*request*”) in English, it is necessary to indicate what is being requested. Paragraph (3) makes it clear that we are dealing with a request for a hearing and therefore 13(4) should have started with “*Pan ofynnir am wrandawriad..*”.

4. The Welsh text of paragraph 14(3) contains one negative too many. Therefore, in the first line after the reference to paragraph (4) it should continue “*rhaid hysbysu*” rather than “*ni hysbysir*”. Consequently in the following paragraph the “*nid*” in the third line is

inappropriate, and it would be easier to understand if “llai na 21 o ddiwrnodau” were followed by “cyn y dyddiad a benodwyd”.

5. The use of “rhaid” in paragraph 14(5) is inappropriate as the English equivalent would be to say that the tribunal may arrange that an application must be heard together with one or more other applications. In this context it would be more appropriate to say “Caiff y tribiwnlys drefnu i gais gael ei wrando...” which would correspond to the degree of emphasis in the English text.

6. In the third line of paragraph 14(7)(a) the use of “gwrando i’r personau” is incorrect. This should read “gwrando ar y personau”.

7. The final part of paragraph 14(7)(b) in the Welsh text is incomplete. The English text reads “whether or not that representative is a barrister or a solicitor”. The Welsh text omits the “or not”. The words “ai peidio should therefore be added after “gyfreithiwr”.

8. The Welsh text of paragraph 16(1)(a) refers to any document received by any other party, whilst the English text makes it clear that it should refer to any document received from another party. The words between the two parts in brackets should therefore read “...) ac y mae wedi’i chael gan unrhyw barti arall (...”.

9. The Welsh text of paragraph 16(1)(b) uses “cynnwys canlyniadau”, whilst the English uses “embodies the results”. If the English is correct, “ymgorffori canlyniadau” would be more precise as “cynnwys” is used for include and consist.

10. The Welsh version of paragraph 23(5)(b) is incomplete. It should read: “caiff roi cyfarwyddiadau ar gyfer cyflwyniad dirprwyol **ar y fath ffurf arall** (boed drwy hysbyseb mewn papur newydd neu fel arall) neu’r **fath ddull arall** y mae’r tribiwnlys yn ei farnu’n briodol.

11. In the Welsh text of paragraph 11(7) of Schedule 2, the words “ceisir am” are superfluous and should be deleted, and “ddisgrifiad” should therefore be changed to “disgrifiad”.

All the above are considered to be minor drafting errors capable of being corrected by a Memorandum of Corrections.

Observations

A number of other points relating to the Explanatory Note and footnotes, spelling punctuation and formatting, appropriate for correction on publication have been identified and notified to the drafting lawyer.

It may also be considered surprising that the Regulations make no provisions in relation to the language of any hearing.

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