

REGULATORY APPRAISAL

LANDLORD AND TENANT, WALES

LEASEHOLD VALUATION TRIBUNALS (PROCEDURE) (AMENDMENT) (WALES) REGULATIONS 2005

Purpose and intended effect of the measure

1. These Regulations amend the Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004.
2. The Commonhold and Leasehold Reform Act 2002 increases the jurisdiction of the LVTs in a number of ways, conferring exclusive jurisdiction upon LVTs over the County Courts for a number of matters. These include the determination of applications connected with the new right introduced under section 168 of the 2002 Act. This prevents a landlord from serving a notice to forfeit a long lease for breach by a tenant of a covenant or condition in the lease, unless the tenant admits the breach, or it has been finally determined by the LVT that the breach has occurred.
3. These amendment Regulations provide for this new jurisdiction and improve operational efficiency of the LVT in a number of ways:
 - remove the requirement to provide a copy of the lease when making an application under section 20ZA(1) (relating to works and agreements for which contributions may be recovered by way of service charges);
 - enable a leasehold valuation tribunal to determine an application without an oral hearing;
 - remove the requirement to give notice at the hearing where an inspection is to be made; and
 - require the production of a copy of the lease with certain applications.

Risk assessment

4. Following discussions with the Leasehold Valuation Tribunals about the operation of the Procedure Regulations, a number of procedural inefficiencies have been identified. If these regulations are not made, these inefficiencies will continue and Leasehold Valuation Tribunals will not operate as effectively and efficiently as they would if the regulations are made. Also, Leasehold valuation Tribunals would be unable to process applications under new jurisdiction conferred on them by the Commonhold and Leasehold reform Act 2002.

Options

5. The following options were identified:

Option 1: Do nothing

6. Leasehold Valuation Tribunals would be unable to deal with the new jurisdictions conferred by the Commonhold and Leasehold Reform Act 2002.

Option 2: Make the Legislation

7. This will enable Leasehold Valuation Tribunals to deal with new jurisdiction conferred on them by the Commonhold and Leasehold Reform Act 2002, and improve the efficiency of the Leasehold Valuation Tribunal, by specifying the particulars and documents that are to be included with an application.

Benefits

Option 1

8. There are no benefits resulting from this option.

Option 2

9. This will ensure that the Leasehold Valuation Tribunal is able to accept applications under the new jurisdiction, the Regulations work more effectively, and that excessive and unnecessary burdens are not placed upon the parties or the Leasehold Valuation Tribunal.

Costs

10. There are no additional costs to the Assembly, landlords or leaseholders. However, there may be additional cost for LVTs, because the courts will retain jurisdiction to also determine similar issues, it is difficult to say what the impact on the LVT caseload will be. It is not anticipated that there will be an immediate impact on the workload and it is estimated that any increase in costs will be met from existing budgets.

Consultation

With Stakeholders

11. No formal consultation has taken place in relation to these Regulations. However, prior to the previous Commencement Order (made on 9 March 2004), all Leasehold Valuation Tribunals were consulted on the proposed changes to the Procedure Regulations as the Assembly is interested in ensuring that the Procedure Regulations work efficiently and that excessive and unnecessary burdens are not placed on the parties or the LVT. With this in mind, and after discussion with the LVTs about the operation of the Procedure Regulations, it has been decided to make additional amendments. The approval of the Council of Tribunals has been sought for the additional amendments, however, no response has yet been received.

With Subject Committee

12. These Regulations have not been scrutinised by the Social Justice and Regeneration Committee. However, the Regulations have been notified to the Committee via the list of forthcoming legislation put to the Committee on 23 February 2005 (SJR-03-05(p.5) (Annex 1)). The Regulations were not identified for detailed scrutiny.

Review

13. The Welsh Assembly Government would be able to monitor the new system by feedback in correspondence provided by leaseholders and landlords

Summary

14. Two options were considered. Option 1 would achieve nothing, and Option 2 would ensure that the Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004 work more effectively, and that excessive and unnecessary burdens are not placed upon the parties or the Leasehold Valuation Tribunal.