

CYNULLIAD CENEDLAETHOL
CYMRU

OFFERYNNAU STATUDOL

2001 Rhif (Cy.)

TAI, CYMRU

Rheoliadau Tai (Cadw'r Hawl i
Brynu) (Diwygio) (Cymru)
2001

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Tai (Cadw'r Hawl i Brynu) 1993 sy'n addasu Rhan V o Ddeddf Tai 1985 (yr hawl i brynu) ar gyfer achosion yng Nghymru pan fydd awdurdod neu gorff yn gwaredu ty annedd cymwys a osodwyd i denant diogel ac y cedwir hawl y tenant i brynu gan adran 171A o'r Ddeddf honno.

Mae'r diwygiadau'n ymwneud â chyfrifo'r llawr costau (*cost floor*) sy'n cyfyngu ar swm y disgownt y gall tenant ei gael wrth arfer yr hawl i brynu. Cyn hyn, yr unig gostau a gynhwyswyd wrth gyfrifo'r llawr costau oedd costau caffael neu adeiladu'r ty annedd a chostau gwelliannau, ond o dan y diwygiadau hyn estynnwyd y costau hyn i gynnwys costau rhai gweithfeydd trwsio a chynnal. Pan nad oedd gwerth i'r ty annedd adeg ei drosglwyddo i'r landlord a hwnnw'n drosglwyddiad yr oedd yn ofynnol cael cymeradwyaeth yr Ysgrifennydd Gwladol neu Gynulliad Cenedlaethol Cymru ar ei gyfer, estynnwyd y costau ymhellach i gynnwys costau cyfleusterau cymunedol penodol, costau gweinyddol heb fod yn fwy na £2,000 a ffioedd proffesiynol ac ymgynghorol.

OFFERYNNAU STATUDOL

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2001 No. (W.)

HOUSING, WALES

The Housing (Preservation of
Right to Buy) (Amendment)
(Wales) Regulations 2001

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations amend the Housing (Preservation of Right to Buy) Regulations 1993 which modify Part V of the Housing Act 1985 (the right to buy) for cases in Wales where an authority or body disposes of a qualifying dwelling-house let to a secure tenant and the tenant's right to buy is preserved by section 171A of that Act.

The amendments relate to the calculation of the cost floor which limits the amount of discount a tenant can receive when exercising the right to buy. Previously the only costs included in the calculation of the cost floor were the costs of acquisition or construction of the dwelling house and the costs of improvements, but under these amendments these costs have been extended to include costs for some works of repair and maintenance. Where the dwelling-house had no value on a transfer to the landlord which required the approval of the Secretary of State or the National Assembly for Wales, the costs have been further extended to include the costs of certain communal facilities, administrative costs not exceeding £2,000 and professional and consultancy fees.

STATUTORY INSTRUMENTS

2001 Rhif (Cy.)

2001 No. (W.)

TAI, CYMRU

HOUSING, WALES

Rheoliadau Tai (Cadw'r Hawl i Brynu) (Diwygio) (Cymru) 2001

The Housing (Preservation of Right to Buy) (Amendment) (Wales) Regulations 2001

Wedi'u gwneud -

Made -

Yn dod i rym -

Coming into force -

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 171C o Ddeddf Tai 1985(a), a freiniwyd bellach yng Nghynulliad Cenedlaethol Cymru I'r graddau y maent yn arferadwy yng Nghymru(b):

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred upon the Secretary of State by section 171C of the Housing Act 1985(a) which are now vested in the National Assembly for Wales so far as exercisable in Wales(b).

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Tai (Cadw'r Hawl i Brynu) (Diwygio) (Cymru) 2001 a deuant i rym ar [2001].

Citation and commencement

1. These Regulations may be cited as the Housing (Preservation of Right to Buy) (Amendment)(Wales) Regulations 2001 and shall come into on [2001].

(a) 1985 p.68: mewnosodwyd adran 171C gan adran 8 o Ddeddf Tai a Chynllunio 1986 (p.63), fe'i diwygiwyd gan adran 127 o Ddeddf Tai 1988 (p.50) a pharagraff 106 o Ran II o Atodlen 17 iddi a pharagraff 19 o Atodlen 21 i Ddeddf Diwygio Cyfraith Prydles, Tai a Datblygu Trefol 1993 (p.28) a'i diddymu'n rhannol gan Atodlen 22 i Ddeddf 1993.

(1) 1985 c.68: section 171C was inserted by section 8 of the Housing and Planning Act 1986 (c.63), was amended by section 127 of and paragraph 106 of Part II of Schedule 17 to the Housing Act 1988 (c.50) and paragraph 19 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 (c.28) and partly repealed by Schedule 22 to the 1993 Act.

(b) Gweler Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672).

(b) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

Diwygio

2. Diwygir Rheoliadau Tai (Cadw'r Hawl i Brynu) 1993(a) i'r graddau y maent yn gymwys i dai annedd yng Nghymru drwy roi, yn lle Atodlen 5A fel y'i nodir yn Rhan II o Atodlen 1 (Addasiadau i Ran V o Ddeddf Tai 1985) ac fel y'i nodir yn Atodlen 2 (Rhan V fel y mae'n gymwys mewn achosion lle cedwir yr hawl i brynu), yr Atodlen a geir yn yr Atodlen i'r Rheoliadau hyn.

Cymhwyso

3. Ni fydd y Rheoliadau hyn yn gymwys mewn achos lle cafodd hysbysiad o dan adran 122(1) o Ddeddf Tai 1985 fel y mae'n gymwys pan gedwir yr hawl i brynu (hysbysiad tenant yn hawlio ei fod yn arfer yr hawl) ei gyflwyno cyn [2001].

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(b)

[2001

Llywydd Cynulliad Cenedlaethol Cymru

Amendment

2. The Housing (Preservation of Right to Buy) Regulations 1993(2) in so far as they apply to dwelling-houses in Wales are amended by substituting, for Schedule 5A as set out in Part II of Schedule 1 (Modifications to Part V of the Housing Act 1985) and as set out in Schedule 2 (Part V as it applies in cases where the right to buy is preserved), the Schedule contained in the Schedule to these Regulations.

Application

3. These Regulations shall not apply in a case where a notice under section 122(1) of the Housing Act 1985 as it applies where the right to buy is preserved (tenant's notice claiming to exercise the right) was served before [2001].

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(b)

[2001

The Presiding Officer of the National Assembly

Rheoliad 2

ATODLEN

SCHEDULE Regulation 2

(a) O.S. 1993/2241

(b) 1998 p.38.

(a) S.I. 1993/2241.

(b) 1998 c.38.

LIMITS ON AMOUNT OF DISCOUNT
RELEVANT COSTS

Introductory

1. In this Schedule—

“cost floor” means the amount mentioned in section 131(1)(a) (limits on amount of discount), and

“relevant costs” means the costs to be taken into account for the purposes of section 131(1)(a).

Relevant costs

2.—(1) Except where a case falls within paragraph 3 and subject to paragraph 4, the costs which may be treated as relevant costs are the following costs (including value added tax) incurred by the landlord—

- (a) the costs of construction of the dwelling-house (including site development works and the acquisition of land);
- (b) the costs of acquisition of the dwelling-house;
- (c) the costs of works initially required following the acquisition of the dwelling-house by the landlord to put it in good repair or to deal with any defect affecting it;
- (d) where the aggregate of the costs of works of repair or maintenance or works to deal with any defect affecting the dwelling-house (except works within paragraph (c) above) exceeds the sum of £5,500, the costs in excess of that amount; and
- (e) the costs of other works to the dwelling-house, except costs of the kind mentioned in paragraph (d).

(2) The following costs shall not be treated as relevant costs for the purposes of sub-paragraph (1)—

- (a) any administrative costs;
- (b) interest; and
- (c) any costs which are recoverable by the landlord as a service charge or an improvement contribution.

3.—(1) Subject to paragraph 4, where the Secretary of State or the National Assembly for Wales consented to the disposal of a qualifying dwelling-house under section 32 or 43 and the sale price attributed to the dwelling-house on that disposal was nil, the costs which may be treated as relevant costs are the following costs (including value added tax) incurred by the landlord—

- (a) the costs of works initially required following the acquisition of the dwelling-house by the landlord to put it in good repair or to deal with any defect affecting it;

- (b) the costs of works of repair or maintenance or works to deal with any defect affecting the dwelling-house;
- (c) the costs of improvement or other works to the dwelling-house;
- (d) the costs of works to any garage or parking area where the facility benefits the dwelling-house;
- (e) the costs of works to provide or improve any communal facility provided in particular for the benefit of the dwelling-house;
- (f) professional fees and consultancy fees; and
- (g) administrative costs not exceeding the sum of £2,000.

(2) The following costs shall not be treated as relevant costs for the purposes of sub-paragraph (1)—

- (a) interest; and
- (b) any costs which are recoverable by the landlord as a service charge or an improvement contribution.

4. Costs incurred on any relevant works shall not be treated as relevant costs if payment for them was made—

- (a) in a period of account ending more than fifteen years before the date of service of the qualifying person's notice under section 122; or
- (b) on or after the date of service of the qualifying person's notice under section 122 unless:—
 - (i) the landlord has before that date entered into a written contract for the carrying out of works; or
 - (ii) the qualifying person has agreed in writing to the carrying out of works and the works have been carried out not later than the date of service of the landlord's notice under section 125 (notice of purchase price) or the works will be carried out under the proposed terms of the conveyance or grant; or
 - (iii) the qualifying person was served a notice in writing under paragraph 3(2) of Schedule 3A (consultation on transfer) and the costs come within paragraphs 2(1)(c) or 3(1)(a) above.

Ascertainment of cost floor

5. The cost floor is an amount equal to the aggregate of the costs which may be treated as relevant costs under the provisions of paragraph 2 or, as the case may be, paragraph 3, and of paragraph 4.

Estimates

6. An estimate may be made for the purposes of arriving at the cost floor for a qualifying dwelling-house where the amount of any relevant costs or payments for them cannot readily be ascertained.

Companies

7. —(1) In a case where a landlord is a company, references to the landlord in paragraphs 2, 3 and 4 include references to a connected company.

(2) For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985(a).”.

(a) 1985 c.6: section 736 was substituted by section 144(1) of the Companies Act 1989 (c.40).

