

EXPLANATORY MEMORANDUM TO THE REGULATION OF PRIVATE RENTED HOUSING (INFORMATION, PERIODS AND FEES FOR REGISTRATION AND LICENSING) (WALES) REGULATIONS 2015

This Explanatory Memorandum has been prepared by the Housing Policy Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Regulation of Private Rented Housing (Information, Periods and Fees for Registration and Licensing) (Wales) Regulations 2015.

Lesley Griffiths

Minister for Communities and Tackling Poverty

7 June 2015

Description

1. The Regulation of Private Rented Housing (Information, Periods and Fees for Registration and Licensing) (Wales) Regulations 2015 set out the information, periods and fees required for an registration and an application for a licence under Part 1 of the Housing (Wales) Act 2014 (“the Act”). Part 1 of the Act relates to the regulation of private rented housing. It includes a requirement for most landlords of dwellings let, or to be let, under domestic tenancies, to register with the designated licensing authority. Similarly, landlords of agents engaged in letting and managing such dwellings, are required to obtain a licence from the designated licensing authority.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. None.

Legislative background

3. Under section 15(1) of the Act Welsh Ministers can prescribe the time period within which an application for registration by a landlord is to be determined by the licensing authority. This will be set at 4 weeks.
4. Under section 15(1)(b) of the Act Welsh Ministers can prescribe the information which is required in an application for registration from a landlord. This information will include such things as contact details, date of birth, addresses of rental properties, name and date of birth of any joint landlord and the name and licence number of any person appointed by the landlord to carry out letting and management work. In addition the Act allows, under section 15(1)(c), for the licensing authority to ask for further information as part of a landlord registration.
5. Section 16(1) of the Act places a duty on a landlord who is registered to notify the licensing authority of any changes as detailed in the Act, such as when a landlord sells a rental property. There is also provision in section 16(1)(e) of the Act for Welsh Ministers to prescribe further changes which must be notified in writing to the licensing authority. These will be changes associated with details provided in the application, such as contact details. A landlord will have 28 days to notify the licensing authority of any change, failure to do so is an offence under section 16(2) – (4) of the Act.
6. Under section 21(4) of the Act Welsh Ministers can prescribe the time period in which a licence application must be determined by the licensing authority. This will be set at 8 weeks.
7. Section 19(1)(b) of the Act enables Welsh Ministers to prescribe the information which is required in an application for a licence. This includes name and contact details, the address of any premises used in relation to which letting work is carried by the applicant, date of birth and details of any licences, voluntary accreditation or registration held. In addition, the Act allows under section 19(1)(c), for the licensing authority to ask for further information as part of a licence application.

8. Section 23 of the Act provides a licence holder must notify the licensing authority of any change in the name under which the licence holder is licensed. There is also provision under section 23(1)(b) of the Act for Welsh Ministers to prescribe further information which must be updated by licence holders if their circumstances change. The licence holder will have 28 days to notify the licence authority of any change and failure to do so will be an offence under sections 23(2) – (4) of the Act.
9. Under sections 15(1)(d) and 19(1)(d) Welsh Ministers can prescribe fees for registration and licensing respectively. Also under section 15(4) the Welsh Ministers may prescribe a further fee for continued registration. Section 46 of the Act provides regulations which prescribe the amount of fee payable by a person in connection with applications to be registered or licensed can set the fee, or provide the fee is to be determined by a person or means specified in the regulations. The licensing authority will set the fees for registration and licensing subject to preparing and publishing a fees policy. The licensing authority may revise its fees policy and where it does so must publish the policy as revised.
10. The procedure for making these regulations is the negative procedure by virtue of section 142(3) of the Act.

Purpose & Intended Effect of the Legislation

11. Part 1 of the Housing (Wales) Act 2014 introduced a mandatory registration scheme for most residential landlords and a requirement for private landlords and agents who carry out letting/management tasks to be licensed. The licensing authority will operate the registration scheme for landlords and the licensing scheme for landlords and agents who operate in the private rented sector in Wales.
12. The Regulations are necessary to ensure that the registration and licensing process operates effectively and efficiently.
13. Regulations 3 and 6 set out the periods within which the licensing authority must determine an application for registration or licence respectively.
14. Regulations 4 and 7 set out the information which must be included in an application for registration or a licence respectively. Regulation 10 also prescribes a declaration which must be included in any application for registration or a licence.
15. Regulations 5 and 8 set out the changes which must be notified to the licensing authority in respect of a landlord who is registered or a person who is licensed respectively.
16. Regulation 9 provides the specified fees are to be determined by the designated licensing authority.

Consultation

17. A formal 6 week consultation was held between 27 March and 07 May 2015 on the policy intent of the Information Regulations. In total 44 responses were received to the consultation. The majority of respondents welcomed the policy intent of the Regulations and agreed with the information which was to be provided, the time periods for determining applications and the intention for the licensing authority to set fees. The consultation summary report will be published on the Welsh Government website.

Regulatory Impact Assessment (RIA)

18. No separate RIA has been prepared for these regulations as the Impact Assessment for the Act is relevant and a copy may be obtained from the Housing Policy Division, Welsh Government, Merthyr Office, Rhydyar, Merthyr Tydfil, CF48 1UZ.