

2007 No. 3160 (W. 271)

**LANDLORD AND TENANT,
WALES**

**The Service Charges (Summary of
Rights and Obligations, and
Transitional Provisions) (Wales)
Regulations 2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the content of the summary of tenants' rights and obligations relating to service charges, which must accompany any demand for such charges made by a landlord, under section 21B of the Landlord and Tenant Act 1985. The Regulations also make provision for minor matters in respect of the form of the summary.

Regulation 4 provides transitional provisions relating to demands for service charges sent to tenants prior to 30 November 2007.

A Regulatory Impact Assessment has been prepared in relation to these Regulations. Copies may be obtained from the Welsh Assembly Government, Housing Directorate, Private Sector Unit, Rhydycar, Merthyr Tydfil, CF48 1UZ (telephone 01685 729181) or Housing.Directorate@wales.gsi.gov.uk.

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The Service Charges (Summary of
Rights and Obligations, and
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Regulations 2007

Made *5 November 2007*

Laid before the National Assembly for Wales

7 November 2007

Coming into force *30 November 2007*

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by section 21B of the Landlord and Tenant Act 1985(1), section 178 of the Commonhold and Leasehold Reform Act 2002(2) and section 26 of the Welsh Language Act 1993(3) and now vested in them(4), make the following Regulations:

Title and commencement

1. The title of these Regulations is the Service Charges (Summary of Rights and Obligations, and Transitional Provisions) (Wales) Regulations 2007 and they come into force on the 30 November 2007.

(1) 1985 c.70. Section 21B was inserted by section 153 of the Commonhold and Leasehold Reform Act 2002 (c.15).

(2) 2002 c.15.

(3) 1993 c.38.

(4) The functions of the Secretary of State under section 21B were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales pursuant to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales under the said sections were transferred to the Welsh Ministers pursuant to section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

Application

2.—(1) Subject to regulation 4, these Regulations apply where, on or after 30 November 2007, a demand for payment of a service charge⁽¹⁾ is served in relation to a dwelling⁽²⁾.

(2) Subject to sub-paragraph (3) these Regulations apply to dwellings in Wales which are subject to a lease⁽³⁾.

(3) These Regulations do not apply where—

- (a) the lease is not a long lease within section 26 of the Landlord and Tenant Act 1985; and
- (b) the landlord is a local authority or a National Park Authority.

Form and content of summary of rights and obligations

3. Where these Regulations apply the summary of rights and obligations which must accompany a demand for the payment of a service charge must be legible in a typewritten or printed form of at least 10 point, and must contain —

- (a) the title “Taliadau Gwasanaeth – Crynodeb o hawliau a rhwymedigaethau tenantiaid / Service Charges – Summary of tenants’ rights and obligations”; and
- (b) the following statement —

“(1) Rhaid yn ôl y gyfraith i’r crynodeb hwn, sy’n gosod yn gryno eich hawliau a’ch rhwymedigaethau mewn cysylltiad â thaliadau sy’n amrywio am wasanaeth, fynd gyda galwad am daliadau gwasanaeth. Oni fydd crynodeb yn cael ei anfon atoch gyda’r alwad i dalu, gellwch ddal y taliad gwasanaeth yn ôl. Nid yw’r crynodeb yn rhoi dehongliad llawn o’r gyfraith ac os ydych mewn unrhyw amheuaeth ynglŷn â’ch hawliau a’ch rhwymedigaethau dylech geisio cyngor annibynnol.

(2) Mae’ch les yn gosod eich rhwymedigaethau i dalu taliadau gwasanaeth i’ch landlord yn ychwanegol at eich rhent. Taliadau gwasanaeth yw symiau sy’n daladwy am wasanaethau, atgyweiriadau, cynnal a chadw, gwelliannau, yswiriant neu gostau’r landlord o ran rheolaeth, i’r graddau y mae’r costau hynny wedi’u dwyn yn rhesymol.

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- (1) For the meaning of “service charge”, *see* section 18 of the Landlord and Tenant Act 1985 (c.70). Section 18 was amended by section 41 of the Landlord and Tenant Act 1987 (c.31) and section 150 of the Commonhold and Leasehold Reform Act 2002.
 - (2) For the meaning of “dwelling”, *see*, section 38 of the Landlord and Tenant Act 1985.
 - (3) For the meaning of “lease”, *see* section 36 of the Landlord and Tenant Act 1985.

(3) Mae gennych hawl i ofyn i dribiwnlys prisio lesddaliadau benderfynu a ydych yn atebol i dalu taliadau gwasanaeth am wasanaethau, atgyweiriadau, cynnal a chadw, gwelliannau, yswiriant neu gostau'r landlord o ran rheolaeth. Gellwch ofyn naill ai cyn neu ar ôl i chi dalu'r tâl gwasanaeth. Os yw'r tribiwnlys yn penderfynu fod y tâl gwasanaeth yn daladwy fe all y bydd y tribiwnlys hefyd yn penderfynu—

- (a) pwy ddylai dalu'r tâl gwasanaeth ac i bwy y dylid ei dalu;
- (b) y swm;
- (c) y dyddiad y daw'n daladwy; ac
- (ch) sut y dylid ei dalu.

(4) Nid oes gennych yr hawliau ym mharagraff (3) fodd bynnag—

- (a) pan fyddwch wedi cytuno ar fater neu wedi cyfaddef iddo;
- (b) pan fydd mater wedi cael ei gyfeirio i gymrodedd, neu y bydd yn cael ei gyfeirio felly, neu pan fydd wedi cael ei benderfynu drwy gymrodedd a chwithau wedi cytuno i fynd i gymrodedd ar ôl i'r anghytundeb ynglŷn â'r tâl gweinyddol godi; neu
- (c) pan fydd llys wedi penderfynu ar fater.

(5) Os yw'ch les yn gadael i'ch landlord adennill costau a dducwyd mewn achos cyfreithiol neu y dichon y bydd yn eu dwyn felly fel taliadau gwasanaeth, gellwch ofyn i'r llys neu'r tribiwnlys y ducwyd yr achos hwnnw ger ei fron i ddatgan na chaiff eich landlord wneud hynny.

(6) Pan fyddwch yn ceisio penderfyniad gan dribiwnlys prisio lesddaliadau bydd rhaid i chi dalu ffi ar gyfer gwneud cais, ac os bydd y mater yn mynd ymlaen am wrandawriad, ffi gwrandawriad, oni fyddwch yn gymwys i gael hepgor neu ostwng y ffi. Ni fydd cyfanswm y ffioedd taladwy i'r tribiwnlys yn fwy na £500, ond gall costau ychwanegol, megis ffioedd proffesiynol, ddeillio o wneud cais, a dichon mai chi fydd raid eu talu.

(7) Mae gan dribiwnlys prisio lesddaliadau y pŵer i ddyfarnu costau, heb fod yn uwch na £500, yn erbyn parti mewn unrhyw achos—

- (a) pan fydd yn gwrthod mater oherwydd ei fod yn wacsaw, yn flinderus neu'n gamddefnydd o'r broses gyfreithiol; neu

- (b) pan fydd o'r farn fod parti wedi gweithredu'n wacsaw, yn flinderus, yn ddirfïol, yn stwrlyd neu'n afresymol.

Mae gan y Tribiwnlys Tiroedd bwerau cyffelyb pan fydd yn clywed apêl yn erbyn penderfyniad gan dribiwnlys prisio lesddaliadau.

(8) Os yw'ch landlord—

- (a) yn bwriadu gwneud gwaith ar adeilad neu unrhyw fangre arall a fydd yn costio mwy na £250 i chi neu i unrhyw denant arall; neu
- (b) yn bwriadu gwneud cytundeb am waith neu wasanaeth a fydd yn para yn hwy na 12 mis ac a fydd yn costio mwy na £100 mewn unrhyw gyfnod cyfrifo o 12 mis i chi neu unrhyw denant arall,

bydd eich cyfraniad wedi'i gyfyngu i'r symiau hyn oni fydd eich landlord wedi ymgynghori'n briodol ar y gwaith a fwriedir neu ar y cytundeb neu bod tribiwnlys prisio lesddaliadau wedi cytuno nad oes angen ymgynghoriad.

(9) Mae gennych hawl i wneud cais i dribiwnlys prisio lesddaliadau i ofyn i'r tribiwnlys benderfynu a ddylid amrywio eich les ar y sail nad yw'n darparu'n foddhaol ar gyfer cyfrifo tâl gwasanaeth sy'n daladwy o dan y les.

(10) Mae gennych hawl i ysgrifennu at eich landlord i ofyn am grynodedb ysgrifenedig o'r costau sy'n ffurfio'r taliadau gwasanaeth. Rhaid fod y crynodedb yn—

- (a) cwmpasu'r cyfnod diwethaf o 12 mis a ddefnyddwyd i wneud y cyfrifon sy'n ymwneud â'r tâl gwasanaeth sy'n dod i ben dim hwyrach na dyddiad eich cais, pan fo'r cyfrifon wedi'u gwneud am gyfnodau o 12 mis; neu
- (b) cwmpasu'r cyfnod o 12 mis sy'n dod i ben ar ddyddiad eich cais, pan na fo'r cyfrifon wedi'i gwneud am gyfnodau o 12 mis.

Rhaid i'r crynodedb gael ei roi i chi o fewn mis i'ch cais neu o fewn 6 mis i ddiwedd y cyfnod y mae'r crynodedb yn ymwneud ag ef, p'run bynnag yw'r diweddaraf.

(11) Mae gennych hawl, o fewn 6 mis o gael crynodedb ysgrifenedig o'r costau, i'w gwneud yn ofynnol i'r landlord ddarparu i chi gyfleusterau rhesymol i edrych ar y cyfrifon, y derbynebau a dogfennau eraill sy'n cefnogi'r

crynodeb ac i wneud copiau neu ddetholiadau ohonynt.

(12) Mae gennych hawl i ofyn i gyfrifydd neu syrfêwr i wneud archwiliad o reolaeth ariannol y fangre sy'n cynnwys eich annedd er mwyn sefydlu rhwymedigaethau eich landlord, ac i ba raddau y mae'r taliadau gwasanaeth a delir gennych yn cael eu defnyddio'n effeithiol. Bydd a ellwch arfer yr hawl hwn ar eich pen eich hun neu'n unig gyda chefnogaeth eraill sy'n byw yn y fangre yn dibynnu ar eich amgylchiadau. Fe'ch cynghorir yn gryf i geisio cyngor annibynnol cyn arfer yr hawl hwn.

(13) Efallai bod eich les yn rhoi hawl i'ch landlord gael ail-fynediad neu gymryd yn ffordfed os ydych wedi methu talu taliadau sy'n briodol ddyledus o dan y les. I arfer yr hawl hwn fodd bynnag rhaid i'r landlord gwrdd â'r holl ofynion cyfreithiol a sicrhau gorchymyn llys. Dim ond os byddwch wedi cyfaddef eich bod yn atebol i dalu'r swm, neu os bydd llys, tribiwnlys, neu broses gymrodeddu wedi dyfarnu'n derfynol fod y swm yn ddyledus y rhoddir gorchymyn llys. Mae gan y llys ddisgresiwn eang wrth roi gorchymyn o'r fath a bydd yn cymryd ystyriaeth o holl amgylchiadau'r achos.

(1) This summary, which briefly sets out your rights and obligations in relation to variable service charges, must by law accompany a demand for service charges. Unless a summary is sent to you with a demand, you may withhold the service charge. The summary does not give a full interpretation of the law and if you are in any doubt about your rights and obligations you should seek independent advice.

(2) Your lease sets out your obligations to pay service charges to your landlord in addition to your rent. Service charges are amounts payable for services, repairs, maintenance, improvements, insurance or the landlord's costs of management, to the extent that the costs have been reasonably incurred.

(3) You have the right to ask a leasehold valuation tribunal to determine whether you are liable to pay service charges for services, repairs, maintenance, improvements, insurance or management. You may make a request before or after you have paid the service charge. If the tribunal determines that the service charge is payable, the tribunal may also determine —

- (a) who should pay the service charge and to whom it should be paid to;
- (b) the amount;
- (c) the date it should be paid by; and
- (d) how it should be paid.

(4) However, you do not have the rights in paragraph (3) where —

- (a) a matter has been agreed or admitted by you;
- (b) a matter has already been, or is to be, referred to arbitration or has been determined by arbitration and you agreed to go to arbitration after the disagreement about the service charge or costs arose; or
- (c) a matter has been decided by a court.

(5) If your lease allows your landlord to recover costs incurred or that may be incurred in legal proceedings as service charges, you may ask the court or tribunal, before which those proceedings were brought, to rule that your landlord may not do so.

(6) Where you seek a determination from a leasehold valuation tribunal, you will have to pay an application fee and, where the matter proceeds to a hearing, a hearing fee, unless you qualify for a waiver or reduction. The total fees payable will not exceed £500, but making an application may incur additional costs, such as professional fees, which you may also have to pay.

(7) A leasehold valuation tribunal has the power to award costs, not exceeding £500, against a party to any proceedings where—

- (a) it dismisses a matter because it is frivolous, vexatious or an abuse of process; or
- (b) it considers a party has acted frivolously, vexatiously, abusively, disruptively or unreasonably.

The Lands Tribunal has similar powers when hearing an appeal against a decision of a leasehold valuation tribunal.

(8) If your landlord—

- (a) proposes works on a building or any other premises that will cost you or any other tenant more than £250, or
- (b) proposes to enter into an agreement for works or services which will last for more than 12 months and will cost you or any other tenant more than

£100 in any 12 month accounting period,

your contribution will be limited to these amounts unless your landlord has properly consulted on the proposed works or agreement or a leasehold valuation tribunal has agreed that consultation is not required.

(9) You have the right to apply to a leasehold valuation tribunal to ask it to determine whether your lease should be varied on the grounds that it does not make satisfactory provision in respect of the calculation of a service charge payable under the lease.

(10) You have the right to write to your landlord to request a written summary of the costs which make up the service charges. The summary must—

- (a) cover the last 12 month period used for making up the accounts relating to the service charge ending no later than the date of your request, where the accounts are made up for 12 month periods; or
- (b) cover the 12 month period ending with the date of your request, where the accounts are not made up for 12 month periods.

The summary must be given to you within 1 month of your request or 6 months of the end of the period to which the summary relates whichever is the later.

(11) You have the right, within 6 months of receiving a written summary of costs, to require the landlord to provide you with reasonable facilities to inspect the accounts, receipts and other documents supporting the summary and for taking copies or extracts from them.

(12) You have the right to ask an accountant or surveyor to carry out an audit of the financial management of the premises containing your dwelling, to establish the obligations of your landlord and the extent to which the service charges you pay are being used efficiently. It will depend on your circumstances whether you can exercise this right alone or only with the support of others living in the premises. You are strongly advised to seek independent advice before exercising this right.

(13) Your lease may give your landlord a right of re-entry or forfeiture where you have failed to pay charges which are properly due under the lease. However, to exercise this

right, the landlord must meet all the legal requirements and obtain a court order. A court order will only be granted if you have admitted you are liable to pay the amount or it is finally determined by a court, tribunal or by arbitration that the amount is due. The court has a wide discretion in granting such an order and it will take into account all the circumstances of the case.”.

Transitional provisions

4. The following provisions apply where a demand (“the first demand”) for the payment of service charges was served prior to 30 November 2007—

- (a) the requirements of section 21B(3) and (4) of the Landlord and Tenant Act 1985, as inserted by section 153 of the Act, will not apply to a further demand for the payment of service charges where the first demand was served before 30 November 2007 in respect of service charges due for payment before 30 November 2007; and
- (b) section 21B of the Landlord and Tenant Act 1985 will apply to a further demand for the payment of service charges where the first demand was served before 30 November 2007 in respect of service charges due for payment on or after 30 November 2007.

Jocelyn Davies

Under authority of the Minister for Environment,
Sustainability and Housing, one of the Welsh
Ministers

05 November 2007.