

**EXPLANATORY MEMORANDUM TO THE RESIDENTIAL PROPERTY
TRIBUNAL PROCEDURES AND FEES (WALES) (AMENDMENT)
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 and 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 Residential Property Tribunal Procedures and Fees (Wales) (Amendment) Regulations 2015

Lesley Griffiths
Minister for Communities and Tackling Poverty
21 October 2015

Description

1. These Regulations amend the Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012 (S.I. 2012/531) (“the 2012 Regulations”) which set out the procedures and fees for hearings undertaken by the residential property tribunal (RPT). These Regulations amend the 2012 Regulations to take account of new applications which may be made to the RPT under the Housing (Wales) Act 2014 (“the 2014 Act”) and the Consumer Rights Act 2015 (“the 2015 Act”).
2. Sections 17(4) and 27(1) of the 2014 Act introduce applications to the RPT to appeal against certain decisions of a Licensing Authority. In addition, the 2015 Act introduces new grounds for an application to the RPT by a letting agent to appeal against a financial penalty imposed by a local weights and measures authority. These Regulations will ensure that details regarding the procedures, fees and documents which need to be lodged in relation to applications, which can be made to the RPT under the 2014 Act and the 2015 Act, are included in the 2012 Regulations, as amended.

Matters of special interest to the Constitutional and Legislative Affairs Committee

3. None.

Legislative Background

4. The 2012 Regulations are made under section 250(2) of and Schedule 13 to the Housing Act 2004 (“the 2004 Act”) and regulate the procedures and the fees to be set by the RPT for hearings which it undertakes.
5. Paragraph 1 of Schedule 13 to the 2004 Act gives the “appropriate national authority” powers to make Regulations in relation to the procedures of the RPT and these powers have been transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
6. These Regulations follow the negative resolution procedure.

Purpose & Intended Effect of the Legislation

7. These Regulations amend the 2012 Regulations following the introduction of the 2014 Act and the 2015 Act.

The 2014 Act:

8. Part 1 of the 2014 Act sets out new requirements for landlords to be registered and agents and landlords to be licensed in order to carry out certain activities in relation to rental properties in Wales, such as property management and letting.
9. As part of this new requirement, provisions have been made to allow applications to the RPT to deal with appeals against the Licensing Authority's decision in the following circumstances:
 - Section 17 of the 2014 Act allows for a Licensing Authority to revoke a landlord's registration in certain circumstances. Section 17(4) allows a person whose registration is revoked to appeal that decision;
 - Section 27 of the 2014 Act allows a licence holder or applicant for a licence to appeal the following decisions of the Licensing Authority, made under sections 25 and 26:
 - a. Granting a licence subject to a condition, other than the requirement to comply with any code of practice issued by Welsh Ministers
 - b. Refusing an application for a licence
 - c. Amending a licence
 - d. Revoking a licence.
10. These Regulations provide for applications to be made to the RPT to appeal in these circumstances and setting the fee in each case at £155.00 which is consistent with other RPT applications.

The 2015 Act:

11. Section 83 of the 2015 Act requires letting agents to publicise relevant fees at their premises and on their website. Section 87 of the 2015 Act provides that, where a local weights and measures authority is satisfied that a letting agent has breached a duty imposed by section 83, it may impose a financial penalty on the agent in respect of that breach. Under paragraph 5 of Schedule 9 to the 2015 Act, where a local weights and measures authority has served a final notice on a letting agent in respect of a financial penalty, the letting agent may appeal against that notice to the RPT.
12. These Regulations provide for applications to be made to the RPT to appeal in these circumstances and setting the fee at £155.00 which is consistent with other RPT applications.

Consultation

13. When the 2012 Regulations were made, the Administrative Justice and Tribunal Council (AJTC) were consulted in writing on the proposed Regulations. However, the AJTC was formally abolished by the UK

Government in August 2013 and the requirement to consult under the Tribunals, Courts and Enforcement Act 2007 was repealed. The non-statutory body that replaced the AJTC, the Committee for Administrative Justice and Tribunals Wales (CAJTW) and the Lord Chief Justice for England and Wales were formally written to and invited to comment on these proposed Regulations. Wider consultation was not considered necessary as the changes are technical and the impact of them is considered to be of a relatively minor nature. The consultation ended on 25 August 2015 and no issues were raised regarding the draft Regulations.

Regulatory Impact Assessment (RIA)

14. No separate RIA has been prepared as the Impact Assessment prepared for the 2014 Act is relevant and a copy may be obtained from the Housing Policy Division, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF41 1UZ.