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Consultation Document

Information, periods and fees required for an application for registration and an application for a licence under Part 1 of the Housing (Wales) Act 2014 – Regulation of Private Rented Housing

Date of issue: **27 March 2015**

Action required: Responses by **7 May 2015**

Overview	This consultation is to gather views on the information, periods and fees required for an application for registration and an application for a licence under Part 1 of the Housing (Wales) Act 2014 – Regulation of Private Rented Housing.
How to respond	Please respond by completing the questionnaire at the back of this document and sending it to Privatesectorhousingmailbox@wales.gsi.gov.uk Or Private Sector Housing Team Housing Policy Division Welsh Government Rhydycar Business Park Merthyr Tydfil CF48 1UZ
Further information and related documents	Large print, Braille and alternate language versions of this document are available on request. More details about the Act can be found on the Welsh Government website: http://gov.wales/topics/housing-and-regeneration/legislation/housing-act/?lang=en http://gov.wales/topics/housing-and-regeneration/legislation/housing-act/?skip=1&lang=cy
Contact details	For further information: Private Sector Housing Team Housing Policy Division Welsh Government Rhydycar Business Park Merthyr Tydfil CF48 1UZ e-mail: privatesectorhousingmailbox@wales.gsi.gov.uk

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Summary

The Housing (Wales) Act 2014 (“the Act”) was passed by the National Assembly for Wales in July 2014 and received Royal Assent on 17 September 2014. Part 1 of the Act introduces a mandatory registration scheme for private landlords and a requirement for private landlords and letting agents to be licensed if they manage or let properties. Part 1 allows for Welsh Ministers, through subordinate legislation, to:

- prescribe the periods in which a designated licensing authority must determine an application for registration or a licence respectively;
- prescribe the information which must be included in an application for registration or a licence respectively;
- prescribe the changes that must be notified to the designated licensing authority in respect of a landlord or a person who is licensed respectively; and
- set fees, or provide that specified fees are to be determined by a specified person, for example the designated licensing authority.

The purpose of this consultation is to seek views on the prescribed information, periods and fees that are proposed.

Consultation responses

Your views are welcomed and a response form is provided at the back of this document. The questions ask for your views on the intention to prescribe the periods in which a designated licensing authority must determine an application for registration or a licence respectively. Prescribing the information which must be included in an application for registration or a licence is also covered by the questions. Views are also sought on the declaration that must be included in an application for registration or a licence and the changes that must be notified to the licensing authority. Comments are also sought in relation to the designated licensing authority setting fees.

Introduction

Housing (Wales) Act 2014

The National Assembly for Wales passed the Housing (Wales) Act 2014 (“the Act”) in July 2014 and Royal Assent was granted in September 2014. Part 1 of the Act relates to the regulation of private rented housing. The intention of the legislation is to improve standards of letting and management in the private rented sector and raise awareness of the respective rights and responsibilities of landlords, agents and tenants. A Designation Order to establish a single Licensing Authority (Cardiff Council) was also debated in Plenary on 24 March 2015.

The main features of Part 1 of the Act are:

- all private landlords must register themselves and the addresses of their properties in Wales with a designated licensing authority;
- landlords who undertake defined letting or property management activities at a rental property in Wales must become licensed. If a landlord instructs an agent to do such work on their behalf, it is the agent who must become licensed;
- in order to get a licence a person must either be, or become, adequately trained and deemed ‘fit and proper’ by the licensing authority;
- the licensing authority/local authorities where rental properties are located will be responsible for any necessary enforcement action against non compliance; and
- the licensing authority/authorities will establish a comprehensive register of all private landlords and agents and rental property addresses and certain information will be available for public access as set out in Schedule 1 of the Act.¹

¹ The registration and licensing scheme will replace the existing voluntary ‘Landlord Accreditation Wales’ scheme currently administered by Cardiff Council.

Legislative Background and Proposals

Registration

Period for registration

Section 15 of the Act relates to registration by a licensing authority. 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. The proposal is that this will be set at 4 weeks.

Information to be included in an application for registration

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:

- the name of the landlord;
- details of any other names by which the landlord has been known;
- the correspondence address of the landlord;
- if the landlord is a body corporate, the address of the landlord's registered or principal office;
- a contact telephone number for the landlord, if available;
- a contact e-mail address for the landlord, if available;
- the date of birth of the landlord, if applicable;
- the address of each rental property in the licensing authority's area for which the landlord is the landlord;
- the name and date of birth of any joint landlord in relation to any rental property declared by the landlord and which one of the joint landlords is to be designated as the lead landlord for the purposes of registration;
- the name and licence number, if applicable, of any person appointed by the landlord to carry out lettings work or property management work on behalf of the landlord and the address of each rental property to which the appointment relates; and
- a relevant registration number if the landlord is a company or charity,.

In addition the Act allows, under section 15(1)(c), for the authority to ask for further information as part of a landlord registration.

Changes to be notified to the licensing authority

Section 16(1) of the Act places a duty on a landlord who is registered to notify the licensing authority of the following changes:

- any change in the name under which the landlord is registered;
- the appointment of a person to carry out lettings work or property management work on behalf of the landlord in respect of the rental property;
- that a person a landlord has previously appointed to carry out letting work or property management work has ceased to do so;
- any assignment of the landlord's interest in the rental property;

There is also provision in section 16(1)(e) of the Housing (Wales) Act 2014 for the Welsh Ministers to prescribe further changes which must be notified in writing to the licensing authority. It is proposed the following changes should be prescribed:

- correspondence address;
- contact telephone number, if provided;
- e-mail address, if provided; and
- any other contact information provided in the application.

It should be noted that a landlord has 28 days to notify the licensing authority of any change, failure to do so is an offence (see section 16(2) – (4) of the Act).

Licensing

Period for determination of a licensing application

Under section 21(4) of the Housing (Wales) Act 2014 Welsh Ministers can prescribe the time period in which a licence application must be determined by the licensing authority. The proposal is that this will be set at 8 weeks.

Information to be included in an application for a licence

Section 19 of the Act relates to licence application requirements.

Under section 19(1)(b) of the Housing (Wales) Act 2014 Welsh Ministers can prescribe the information which is required in an application for a licence. This will include:

- the name of the applicant;
- details of any other names by which the applicant has been known;
- the correspondence address of the applicant;
- if the applicant is a body corporate, the address of the applicant's registered or principal office;
- if the applicant is carrying out lettings work and property management work on behalf of a landlord in the course of business, the address of any premises in the area of the licensing authority used for that purpose;
- a contact telephone number for the applicant, if available;
- a contact e-mail address for the applicant, if available;
- the date of birth of the applicant, if applicable;
- whether the applicant is applying -
 - (i) in respect of a rental property which the applicant is the landlord for; or
 - (ii) as a person acting on behalf of the landlord;

- details of any licences, voluntary accreditation, or registration held, refused or revoked in connection with any rental properties in any other part of the UK by the proposed licence holder;
- a declaration of –
 - (i) any convictions of the applicant relating to offences involving the matters listed in section 20(3)(a) of the Act;
 - (ii) any court of tribunal judgement against the applicant under the Equality Act 2010; and
 - (iii) any conviction of the applicant relating to offences in connection with any matter relating to the provisions referred to in section 20(3)(c) of the Act and any finding of a court or tribunal that the applicant has contravened any of those provisions;

- where the application is a charity or company, the relevant registration number; and
- the name and date of birth of any connected person², if applicable, and how they have met, or will meet, the training requirements specified in regulations made under section 19(2)(b) of the Act.

In addition the Act allows, under section 19(1)(c), for the authority to ask for further information as part of a licence application.

Changes to be notified to licensing authority

Section 23 of the Act provides that a licence holder must notify the licensing authority in writing of the following changes:

- any change in the name under which the licence holder is licensed.

There is also provision in section 23(1)(b) of the Act for the Welsh Ministers to prescribe further information which has to be updated by licence holders if their circumstances change. The proposed changes include:

- correspondence address;
- contact telephone number, if provided;
- e-mail address, if provided;
- any other contact information provided in the application;
- any material change that would constitute evidence of the matters referred to in section 20(3) to (5) (fit and proper person requirement); and
- any changes in identity of any connected person.

It should be noted that a licence holder has 28 days to notify the licensing authority of any change, failure to do so is an offence (see section 23(2) – (4) of the Act).

² “Connected person” means a person doing things under a contract of service or apprenticeship with an applicant for a licence who, as part of their role, undertakes the type of letting and property tasks the Act covers.

Registration and Licensing

Fees for registration and licensing

Under sections 15(1)(d) and 19(1)(d) Welsh Ministers can prescribe fees for registration and licensing respectively, and also under section 15(4) the Welsh Ministers may prescribe a further fee for continued registration. Section 46 of the Act provides that regulations which prescribe the amount of fee payable by a person in connection with application not be registered or licenced can set the fee, or provide that the fee is to be determined by a person or means specified in the regulations.

The intention is to allow the licensing authority to set fees subject to the following requirements:

- before charging a fee, the licensing authority must prepare and publish a fees policy;
- when fixing a fee for the purpose of registration or licensing the licensing authority –
 - (i) must act in accordance with its fees policy;
 - (ii) may fix different fees for different cases or descriptions of cases; and
 - (iii) may determine that no fee is required to be paid in certain cases or description of cases;
- the licensing authority may revise its fees policy and, where it does so, must publish the policy as revised.

Declaration to be included in applications for registration or a licence

It is proposed that an application for registration or an application for a licence must include a completed declaration in the following form –

- “I/we declare that the information contained in this application is correct to the best of my/our knowledge. I/we understand that I/we commit an offence if I/we supply any information to the licensing authority in connection with any of its functions under Part 1 of the Housing (Wales) Act 2014 that is false or misleading and which I/we know is false or misleading or am/are reckless as to whether it is false or misleading”.

Next Steps

To enable Part 1 of the Housing (Wales) Act 2014 to come into force the Welsh Government must make regulations that prescribe the information, period and fees for registration and an application for a licence.

This consultation paper seeks views on the policy intention of the Prescribed Information, Periods and Fees for Registration and Licensing regulations as set out above.

Response Form

Name:

Email:

Telephone:

Address:

Postcode:

Organisation
(if applicable)

Returning this form

The closing date for replies is: **07.05.15**

Please send this completed form to us by email to:

Privatesectorhousingmailbox@wales.gsi.gov.uk

Or by post to:

Private Rented Sector

Housing Policy

Welsh Government

Rhydycar Business Park

Merthyr Tydfil

CF48 1UZ

If you are sending your response by email, please mark the subject of your

e-mail **Prescribed information, periods and fees Consultation**

Publication of responses

Responses to consultations may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author will be published along with the response, as this helps to show the consultation exercise was carried out properly.

If you would prefer your name and address not to be published, please tick here:		
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Period for registration

It is the intention to allow the Licensing Authority 4 weeks to process an application for registration.

1. Do you agree that 4 weeks is an appropriate timescale for processing an application for registration?

Yes

No

If not, why not?

Information to be included in an application for registration

An application for registration will have to contain specified information which will be stipulated in Regulations.

2. Do you consider that the proposed information that will be required is adequate?

Yes

No

If not, why not?

Changes to be notified to the licensing authority

If a landlord's circumstances change e.g. they move to a new correspondence address, there will be a duty to inform the Licensing Authority of that change in circumstances.

3. Do you consider that the changes proposed in the regulations which have to be notified to the Licensing Authority are adequate?

Yes

No

If not, why not?

Period for determination of a licensing application

It is the intention to allow the Licensing Authority 8 weeks to process an application for licensing

4. Do you think that 8 weeks is a reasonable timescale for determining a licensing application?

Yes

No

If not and why?

Information for an application for a licence

An application for a licence will have to contain specified information that will be prescribed in Regulations.

5. Do you consider that the information that will be required is adequate?

Yes

No

If not, why not?

Changes to be notified to licensing authority

If a licensed person's circumstances change e.g. they move to a new correspondence address, there will be a duty to inform the Licensing Authority of that change in circumstances.

6. Do you agree the changes proposed in the regulations which will have to be notified to the Licensing Authority are reasonable?

Yes

No

If not, why not?

Fees for registration and licensing

It is the intention that the licensing authority will be able to set a fees policy for registration and licensing fees. Before charging any fee, the licensing authority must prepare and publish a fees policy and will only be able to charge such fees in line with their fees policy. The licensing authority may fix different fees for different cases or descriptions of cases but these must be clearly shown in their policy.

7. Do you agree that the Licensing Authority should set and publish a fees policy for registration and licensing fees?

Yes

No

If not, why not?

Declaration to be included in applications for registration or a licence

An application for registration or a licence will have to be accompanied by a specific declaration.

8. Do you consider that the proposed declaration is adequate?

Yes

No

If not, why not?