

REGULATORY APPRAISAL

HOUSING, WALES

THE APPROVAL OF CODES OF MANAGEMENT PRACTICE (RESIDENTIAL PROPERTY) (WALES) ORDER 2005

Background

1. Sections 87 and 100 of the Leasehold Reform, Housing and Urban Development Act 1993 confer powers to approve, modify or withdraw, any code of practice submitted for approval which promotes desirable practices, in relation to the management of residential property
2. The effect of the Code is to encourage desirable practices in the management of residential property and promotes the Assembly's aims to secure a better managed private rented sector.
3. The Minister for Social Justice and Regeneration has put forward for approval by the Assembly, the Rent Only Residential Management Code for Wales submitted for approval, by the Royal Institution of Chartered Surveyors.

Purpose and intended effect of the measure

4. The Order gives approval to the RICS Rent Only Residential Management Code. This is a revised code following recent changes to legislation and is designed to improve the standards of residential property management in Wales.
5. The main amendments to the code are as follows:
 - Unfair Terms in Tenancy Agreements - new regulations stipulate a fair balance between tenants and landlords to ensure tenancy agreements contain fair terms in plain and intelligible English;
 - New sections on both disability and racial discrimination;
 - New sections on:
 - providing guidance on provision for entry in emergencies and general access requirements when dealing with repairs and inspection of the property;
 - supplementary advice on inventories and dilapidations including schedules of condition and procedures for undertaking inventories; and
 - a new Glossary which helps provide a reference point on frequently used words and phrases.
 - Details of changes to legislation; and

- Guidance on new procedures and case law affecting the private rented sector.

Risk assessment

6. Approval of the Code does not have the effect of making a breach of the code a criminal offence nor does a breach create a civil liability. However, the contents of the Code may be used in evidence and taken into account, if relevant, in court and tribunal proceedings. If the revised Code is not implemented, managers will be working to outdated guidance. As revised guidance has been in place in England for some time, this could reflect badly on the Assembly.

Options

Option 1: Do Nothing.

7. If this proposed Order is not implemented landlords and tenants will continue to be subject to guidance, which is out of date and does not reflect recent changes in the law.

Option 2: Make the Legislation

8. This will give effect to the introduction of a revised Code, which will encourage desirable practices in the management of residential property.

Benefits

9. The Code is written for the managers of residential property, although it is relevant to landlords and tenants. The code advises on best practice through co-operation and mutual understanding between landlords, tenants, occupiers and managers of the procedures necessary for the effective management of property, as well as awareness of the problems that can arise. Therefore, making the Order will give effect to the revised Code.

Costs

10. There will be no additional costs to the Assembly or landlords arising from these amendments. It is considered that the Code will not have a disproportionate effect upon small businesses, because most are already operating in accordance with the Code; it is the less 'efficient' landlords who will incur minor expenditure. However, even the latter are only likely to incur a one-off cost as they set up/revise systems to comply with the new Code.

Consultation

With Stakeholders

11. Although there has been no formal consultation on this Order, the Royal Institution of Chartered Surveyors has undertaken extensive consultation with interested parties and representative groups in England and Wales on the Code, to which this Order merely gives effect.

With Subject Committee

12. This Order has been notified to the Social Justice and Regeneration Committee via a letter from the Minister for Social Justice and Regeneration to the Chair of the Committee dated 19 July 2005. This Order was also notified to the Social

Justice and Regeneration Committee via the list of forthcoming legislation on 28 September 2005 and has remained on the list ever since (SJR(2)-12-05(p.3) Annex 1), but was not identified for detailed scrutiny.

Review

13. The Welsh Assembly Government would be able to monitor the new system by feedback in correspondence provided by landlords and tenants and their representative bodies, such as the Royal Institution of Chartered Surveyors. The Code is an RICS document and as such would not be subject to review by the Assembly

Summary

14. Two options were considered, Option 1 would achieve nothing and Option 2 would encourage desirable practices in Wales and promote the Assembly's aims to secure a better managed private sector.