



Llywodraeth Cymru
Welsh Government

Guidance

Renting Homes (Wales) Act 2016

February 2020

Renting Homes (Wales) Act 2016 and Renting Homes (Amendment) (Wales) Bill – Web Page

What is the Renting Homes (Wales) Act 2016?

The Renting Homes (Wales) Act 2016 ('the Act') received Royal Assent in January 2016 and is based closely on Law Commission recommendations. It will directly affect the lives of around 1 in 3 people in Wales who live in a home rented from a social or private landlord.

The Act will make it simpler and easier to rent a home in Wales, replacing various and complex pieces of existing legislation with one clear legal framework.

What changes are going to happen?

Central to the Act are the new '*occupation contracts*', which will replace the current confusing array of tenancy and licence agreements. There will be two types of occupation contract:

Secure Contract	Standard Contract
The default contract issued by 'community landlords' (the term used for local authorities and registered social landlords).	The default contract for use by private landlords (all landlords other than community landlords).

The Act requires all landlords to issue a '*written statement*' of the occupation contract to the contract-holder. This written statement must contain all required contractual terms.

<i>fundamental terms</i>	Set out within the Act and covering the most important aspects of the contract, including the possession procedures and the landlord's obligations regarding repair.
<i>supplementary terms</i>	Set out in secondary legislation, these terms deal with the more practical, day to day matters applying to the occupation contract, for example, the requirement to pay rent on time or maintain a garden.
<i>additional terms</i>	These terms address any other specifically agreed matters, for example a term which relates to the keeping of pets. Any additional terms must be fair, as required by the Consumer Rights Act 2015.

In addition to reforming the law underpinning how homes are rented, the Act contains a number of important new provisions.

Joint Contracts

The new approach to joint contracts will enable contract-holders to be added or removed from occupation contracts without the need to end the contract for all, as is currently the case. The new approach will help avoid the risk of homelessness and will also help victims of domestic abuse, by enabling the perpetrator to be targeted for eviction.

Succession Rights

Succession rights are broadly enhanced, enabling both a 'priority' and 'reserve' successor to succeed to the occupation contract. This will potentially enable two successions to the contract to take place, for example a spouse followed by a child. In addition, a new succession right for carers is created which will provide increased security for many of the 370,000-plus unpaid carers in Wales.

Fitness for Human Habitation

Landlords must ensure any dwelling subject to an occupation contract is fit for human habitation (FFHH). This will include, for instance, that functioning smoke alarms, carbon monoxide detectors and electrical and gas safety certificates be in place for each dwelling they let; there is no legal requirement to do so at the moment. In addition, rent will not be payable for any period during which the dwelling is not fit for human habitation.

Retaliatory Eviction

The Act protects a contract-holder from the practice of retaliatory eviction (where a landlord responds to request for repair by issuing an eviction notice). A landlord will no longer be automatically entitled to possession where the Court is satisfied the possession notice was issued in response to a contract-holder's request in respect of disrepair or FFHH.

Abandonment Procedure

Landlords will have access to a new abandonment procedure, enabling them to repossess an abandoned property without needing a court order, after serving a four-week warning notice and carrying out investigations to satisfy themselves the property is abandoned.

Supported Accommodation

Those in supported accommodation will, for the first time, have a distinct legal basis underpinning their occupation. Where occupation within supported accommodation extends beyond six months, the occupant becomes entitled to a '*supported standard contract*'. The supported standard contract will operate in a similar way to the standard contract, save for two measures which recognise the particular challenges that can arise in managing supported accommodation:

- the ability to relocate the contract-holder within the building; and
- the ability for the landlord to temporarily exclude the contract-holder from the dwelling for up to 48 hours, a maximum of three times in six months.

Why is the Act being amended? What changes will the Renting Homes (Amendment) (Wales) Bill make to the 2016 Act?

The Renting Homes (Amendment) (Wales) Bill (“the Bill”) will amend the Renting Homes (Wales) Act 2016 (“the 2016 Act”) prior to its coming into force to provide greater security for people who rent their homes in Wales, in particular those who live in the private rented sector (“PRS”).

The Bill will increase security of occupation under standard occupation contracts by amending the 2016 Act to:

- extend the minimum notice period for a notice given under section 173 (which is equivalent to section 21 of the Housing Act 1988, and applies in relation to periodic standard contracts) from two months to six months;
- restrict the issuing of such a notice until six months after the occupation date of the contract (the 2016 Act currently sets this at four months);
- remove a landlord’s ability to serve a section 173 notice until six months after the expiry of any previous section 173 notice which the landlord has served, to avoid the practice whereby some landlords issue a section 173 notice ‘just in case’ they wish to use it;
- remove a landlord’s ability to issue a notice during the term of a fixed term standard contract to end the contract at the expiry of the fixed term (meaning that a landlord who wishes to remove a contract-holder who remains in occupation at the end of the fixed term will be required to serve a section 173 notice to bring the periodic standard contract which will automatically arise at the end of the fixed term to an end). This would be subject to the extended six month notice period and guarantee a minimum twelve months’ security at the beginning of the periodic standard contract,
- prevent the inclusion of landlords’ break clauses in fixed term standard contracts of less than 24 months, and prevent the activation of any break clause until at least month 18 of a fixed term contract, as well as setting the notice period under a landlord’s break clause at six months;
- provide a regulation-making power which will enable the Welsh Ministers to amend the 2016 Act to provide that the ability to include a term to exclude a contract-holder from the dwelling for specified periods under a periodic or fixed term standard contract either does not apply to contracts of a specific description or applies only in relation to contracts of a specific description; and,
- make a number of miscellaneous amendments to the 2016 Act. These include removing the subjective element of the test as to whether an amendment to a fundamental provision improves the contract-holder’s position. This is to avoid unscrupulous landlords undermining the increased security of occupation provided by

the Bill by pressurising contract-holders to agree that a shorter notice period would be in their interests.

Renting Homes (Amendment) (Wales) Bill – Impact Assessments

We introduced the Renting Homes (amendment) Bill into the National Assembly for Wales on 10 February 2020.

The Bill will: improve security of tenure for standard occupation contracts with a 6 month minimum notice period which cannot be served in the first 6 months of occupation; restrict the serving of repeat notices; and abolish the ability to service notice without grounds within fixed term contracts.

We have conducted a series of impact assessments (Equality, Children’s rights, Welsh Language, Justice) which are included in the universal impact assessment document

<https://gov.wales/renting-homes-amendment-wales-bill-impact-assessments>

Renting Homes (Amendment) (Wales) Bill – Passage of the Bill

Information on the scrutiny of the bill is available at the National Assembly for Wales website

<http://senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=27569&AIID=56241>.

Detailed information including Explanatory Memorandum, the Presiding Officer’s Statement and scrutiny of the Bill through Committee and Plenary can be found at this link.