

EXPLANATORY NOTES

RENTING HOMES (WALES) ACT 2016

INTRODUCTION

Tenancies and licences

Is a tenancy or licence an occupation contract?

If so, what kind of occupation contract is it?

What are the terms of an occupation contract?

Fundamental provisions

What are the terms of an occupation contract?

Supplementary provisions

What are the terms of an occupation contract?

Terms addressing key matters and additional terms

Where are the terms of an occupation contract set out?

STRUCTURE OF THE ACT

COMMENTARY ON SECTIONS

PART 1 - OVERVIEW OF ACT

Sections 1 to 6 – Introduction to, and overview of, Act

Schedule 1 - Overview of fundamental provisions incorporated as terms of occupation contracts

PART 2 - OCCUPATION CONTRACTS AND LANDLORDS

Chapter 1 - Occupation Contracts

Section 7 – Tenancies and licences that are occupation contracts

Schedule 2 - Exceptions to section 7

PART 1 - TENANCIES AND LICENCES NOT WITHIN SECTION 7 THAT ARE OCCUPATION CONTRACTS IF NOTICE IS GIVEN

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Paragraph 1

Paragraph 2

**PART 2 - TENANCIES AND LICENCES WITHIN SECTION 7
THAT ARE NOT OCCUPATION CONTRACTS UNLESS
NOTICE IS GIVEN**

Paragraph 3

**PART 3 - TENANCIES AND LICENCES THAT ARE NEVER
OCCUPATION CONTRACTS**

Paragraph 7

Paragraph 8

Paragraph 10

**PART 4 - TENANCIES AND LICENCES TO WHICH SPECIAL
RULES APPLY: HOMELESSNESS**

Paragraph 11

Paragraph 12

**PART 5 - TENANCIES AND LICENCES TO WHICH SPECIAL
RULES APPLY: SUPPORTED ACCOMMODATION**

Paragraph 13

Paragraph 14

Paragraph 15

Paragraph 16

Section 8 – Secure contracts and standard contracts

**Chapter 2 - Nature of Contracts Which Can Be Made Etc. by Community
Landlords and Private Landlords**

Section 9 – Community landlords and Section 10 – Private landlords

Section 11 – Contract made with community landlord

Schedule 3 - Occupation contracts made with or adopted by community
landlords which may be standard contracts

Section 12 – Contract adopted by community landlord

Section 13 – Notice of standard contract

Section 14 – Review of notice

Section 15 – Notice of right to decide to remain on fixed contract

Section 16 – Introductory standard contracts

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Schedule 4 - Introductory standard contracts

Paragraph 1

Paragraph 2

Paragraph 3

Paragraph 4

Paragraph 5

Paragraph 6

Paragraph 7

Paragraph 8

Paragraph 9

Section 17 – Contract made with or adopted by private landlord

Chapter 3 - Fundamental Provisions of Occupation Contracts

Section 18 - Fundamental provisions and Section 19 – Fundamental terms and fundamental provisions: definitions

Section 20 – Incorporation and modification of fundamental provisions

Section 21 – Effect of non-incorporation and modification of fundamental provisions

Section 22 – Powers in relation to fundamental provisions

Chapter 4 - Supplementary Provisions of Occupation

Contracts

Section 23 – Supplementary provisions

Section 24 – Incorporation and modification of supplementary provisions

Section 25 – Effect of non-incorporation and modification of supplementary provisions

Chapter 5 - Key Matters and Additional Terms of Occupation Contracts

Section 26 – Key matters of all occupation contracts

Section 27 – Further key matters of standard contracts

Section 28 – Additional terms

Chapter 6 - Model Contracts

Section 29 – Model written statement of contract

PART 3 - PROVISIONS APPLYING TO ALL OCCUPATION CONTRACTS

Chapter 1

Section 30 – Overview of this Part

Chapter 2 - Provision of Information

Section 31 – Written statement

Section 32 – Contents of written statement

Section 33 – Editorial changes

Section 34 – Failure to provide a written statement etc.

Section 35 - Failure to provide statement: compensation

Section 36 – Incomplete statement

Section 37 – Incorrect statement: contract-holder’s application to court

Section 38 – Incorrect statement: landlord’s application to court for declaration that contract is a standard contract

Section 39 – Provision by landlord of information about the landlord and

Section 40 - Compensation for breach of section 39

Section 41 – Form of notices etc.

Chapter 3 - When Contract Becomes Enforceable

Section 42 – When terms of occupation contract become enforceable

Chapter 4 - Deposits and Deposit Schemes

Section 43 – Form of security

Section 44 – Form of security: county court proceedings

Section 45 – Requirement to use deposit scheme

Section 46 – Deposit schemes: further provision

Schedule 5 - Deposit schemes: further provision

Paragraph 1

Paragraphs 2 and 3

Paragraph 4

Section 47 - Deposit schemes: interpretation

Chapter 5 - Joint Contract-Holders and Joint Landlords

Section 48 – Joint contract-holders: joint liability etc.

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Section 49 – Adding a joint contract-holder

Section 50 - Adding a joint contract-holder: landlord's consent

Schedule 6 - Reasonableness of withholding consent etc.

PART 1 – INTRODUCTORY

PART 2 – CIRCUMSTANCES WHICH MAY BE RELEVANT TO REASONABLENESS GENERALLY

PART 3 - CIRCUMSTANCES WHICH MAY BE RELEVANT TO REASONABLENESS IN RELATION TO PARTICULAR TRANSACTIONS

Section 51 - Adding a joint contract-holder: formalities

Section 52 - Joint contract-holder ceasing to be a party to the occupation contract

Section 53 - Joint landlords

Chapter 6 - Right to Occupy Without Interference

Section 54 – Right to occupy without interference from landlord

Chapter 7 - Anti-Social Behaviour and Other Prohibited Conduct

Section 55 - Anti-social behaviour and other prohibited conduct

Schedule 7 - Prohibited conduct standard contracts

Paragraph 1

Paragraph 2

Paragraph 3

Paragraph 4

Paragraphs 5 and 6

Paragraph 7

Paragraph 8

Section 56 – Power to amend section 55

Chapter 8 - Dealing

Section 57 – Permissible forms of dealing and Section 58 - Dealing and landlord's consent

Sections 59 - Sub-occupation contracts: interpretation

Section 60 - Sub-occupation contract never takes effect as transfer

Section 61 - Failure to comply with conditions imposed by head landlord

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Section 62 - End of head contract

Section 63 - End of head contract: further provision

Section 64 - Possession claim against contract-holder where there is a sub-holder

Section 65 - Extended possession order against sub-holder

Section 66 - Exclusion of contract-holder after abandoning contracts

Section 67 - Excluded contract-holder's remedies

Section 68 - Power to vary periods of time relating to exclusion after abandonment of contracts

Section 69 - Form of transfer and Section 70 - Effect of authorised transfer

Section 71 - Effect of unauthorised transfer

Section 72 - Deeds and covenants

Section 73 - Succession on death

Sections 74 to 76 - Persons qualified to succeed

Section 77 - Reserve successor: carer

Section 78 - More than one qualified successor

Section 79 - Effect of succession

Section 80 - Substitute succession on early termination and Section 81 - Effect of substitute succession

Section 82 - Notice of rights under section 80

Section 83 - Succession interpretation

Chapter 9 - Landlord's Consent

Section 84 - Landlord's consent: reasonableness

Section 85 - Application to court relating to consent

Section 86 - Landlord's consent: timing

Chapter 10 - Compensation

Section 87 - Compensation for failures relating to provision of written statements etc.

Section 88 - Right of set off

PART 4 - CONDITION OF DWELLING

Chapter 1

Section 89 – Application of Part

Section 90 – Fixed term standard contracts: determining the length of term

Chapter 2 - Condition of Dwelling

Section 91 – Landlord’s obligation: fitness for human habitation

Section 92 - Landlord’s obligation to keep dwelling in repair

Section 93 – Obligations under sections 91 and 92: supplementary

Section 94 – Determination of fitness for human habitation

Section 95 - Limits on sections 91 and 92: general

Section 96 – Limits on sections 91 and 92: contract-holders fault

Section 97 - Limits on section 91 and 92: notice

Section 98 – Landlord’s right to access dwelling

Section 99 – Rights of permitted occupiers to enforce Chapter

Chapter 3 – Miscellaneous

Section 100 - Specific performance

Section 101 – Waste and tenant-like user

PART 5 - PROVISIONS APPLYING ONLY TO SECURE CONTRACTS

Chapter 1

Section 102 – Overview of Part

Chapter 2 - Variation of Contracts

Section 103 – Variation

Section 104 - Variation of rent and Section 105 – Variation of other consideration

Section 106 - Variation of fundamental terms

Section 107 – Variation of supplementary and additional terms

Section 108 – Limitation on variation

Section 109 – Written statement of variation

Section 110 – Failure to provide written statement etc.

Chapter 3 - Joint Contract-Holders: Withdrawal

Section 111 – Withdrawal

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Section 112 - Withdrawal: power to prescribe time limits

Chapter 4 - Dealing

Section 113 – Lodgers

Section 114 and 115 - Transfer to potential successor

Chapter 5 - Prohibited Conduct Standard Contracts

Section 116 - Order imposing periodic standard contract because of prohibited conduct and Section 117 - Conversion to secure contract

Chapter 6 - Provisions Applying Only to Secure Contracts With Community Landlords

Section 118 - Transfer to another secure contract-holder and Section 119 - Transfer to another secure contract-holder: landlord's consent

PART 6 - PROVISIONS APPLYING ONLY TO PERIODIC STANDARD CONTRACTS

Chapter 1

Section 120 – Overview of Part

Chapter 2 – Exclusion for Specific Periods

Section 121 – Exclusion of contract-holder from dwelling for specific periods

Chapter 3 - Variation of Contracts

Section 122 - Variation

Section 123 – Variation of rent and Section 124 – Variation of other consideration

Section 125 – Variation of other terms

Section 126 - Variation by landlord of other terms: notice procedure

Section 127 - Limitation on variation

Section 128 – Written statement of variation

Section 129 – Failure to provide written statement etc.

Chapter 4 - Joint Contract-Holders: Withdrawal

Section 130 – Withdrawal

Section 131 - Withdrawal: power to prescribe time limits

PART 7 - PROVISIONS APPLYING ONLY TO FIXED TERM STANDARD CONTRACTS

Chapter 1

Section 132 – Overview of Part

Chapter 2 – Exclusion for Specified Periods

Section 133 – Exclusion of contract-holder from dwelling for specified periods

Chapter 3 - Variation of Contracts

Section 134 and 135 – Variation and Limitation on variation

Section 135 - Limitation on variation

Section 136 – Written statement of variation

Section 137 – Failure to provide written statement etc.

Chapter 4 - Joint Contract-Holders: Withdrawal

Section 138 – Withdrawal of joint contract-holder using contract-holder's break clause

Chapter 5 - Dealing: Transfers

Section 139 – Transfer on death of sole contract-holder

Section 140 – Forced transfers

Section 141 – Joint contract-holder's interest

Section 142 - Transfer on death of joint contract-holder

PART 8 - SUPPORTED STANDARD CONTRACTS

Section 143 - Supported standard contract and supported accommodation

Section 144 – Mobility

Section 145 – Temporary exclusion

Section 146 – Temporary exclusion: guidance

PART 9 - TERMINATION ETC. OF OCCUPATION CONTRACTS

Chapter 1 - Overview and Introductory Provisions

Section 147 – Overview of Part

Section 148 – Permissible termination etc.

Section 149 – Possession claims and Section 150 – Possession notices

Section 151 – Introductory standard contracts and prohibited conduct
standard contracts: notices under section 173 and 181

Chapter 2 - Termination Etc. Without a Possession Claim (This Chapter Applies to All Occupation Contracts)

Section 152 – Early termination by contract-holder

Section 153 – Termination by agreement

Section 154 – Repudiatory breach by landlord

Section 155 – Death of sole contract-holder

Section 156 - Death of landlord where occupation contract is a licence

Chapter 3 - Termination of All Occupation Contracts (Possession Claims by Landlords)

Section 157 – Breach of contract

Section 158 – False statement inducing landlord to make contract to be treated as breach of contract

Section 159 – Restrictions on section 157

Section 160 – Estate management grounds

Schedule 8 - Estate Management Grounds

PART 1 – THE GROUNDS

Redevelopment grounds

Paragraph 1 - Ground A (building works)

Paragraph 2 - Ground B (redevelopment schemes)

Special accommodation grounds

Paragraph 3 - Ground C (charities)

Paragraph 4 - Ground D (dwellings suitable for disabled people)

Paragraph 5 - Ground E (housing associations and housing trusts: people difficult to house)

Paragraph 6 - Ground F (groups of dwellings for people with special needs)

Under-occupation grounds

Paragraph 7 - Ground G (reserve successors)

Paragraph 8 - Ground H (joint contract-holders)

Other estate management reasons

Paragraph 9 - Ground I (other estate management reasons)

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Section 161 - Restrictions on section 160

Section 162 - Estate management grounds: redevelopment schemes

Schedule 8 - Estate Management Grounds

PART 2 - APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND B

Paragraph 11

Paragraph 12

Paragraph 13

Paragraph 14

Paragraph 15

Paragraph 16

Chapter 4 - Termination of Secure Contracts (Contract- Holder's Notice)

Section 163 - Contract-holder's notice and Section 164 - Minimum notice period

Section 165 – Recovery of possession

Section 166 – Restrictions on section 165

Section 167 - Termination of contract on contract-holder's notice

Chapter 5 - Termination of Periodic Standard Contracts

Section 168 to 172 - Contract-holder's notice and minimum notice period

Section 173 – Landlord's notice and Section 174 - Minimum notice period

Section 175 - Restrictions on section 173: notice may not be given in first four months of occupation

Schedule 9 – Standard contracts to which limits in sections 175, 185(2) and 196 (landlord's notice during first six months of occupation) do not apply

Section 176 – Restrictions on section 173: breach of information requirements

Section 177 - Restrictions on section 173: breach of security and deposit requirements

Section 178 – Recovery of possession

Section 179 – Restriction on section 178

Section 180 – Termination of contract on landlord's notice

Section 181 - Serious rent arrears

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Section 182 - Restrictions on section 181

Section 183 – Relevance of events under fixed term standard contract

Chapter 6 – Fixed Term Standard Contracts: End of the Fixed Term

Section 184 – End of fixed term

Section 185 – Written statement may address periodic standard contract arising under section 184(2)

Chapter 7 – Termination of Fixed Term Standard Contracts

Section 186 – Landlord’s notice in connection with end of term

Section 187 – Serious rent arrears and Section 188 – Restrictions on section 187

Section 189 – Contract-holder’s break clause and Section 190 - Minimum notice period

Section 191 – Recovery of possession

Section 192 – Restrictions on section 191

Section 193 – Termination of contract under contract-holder’s break clause

Section 194 – Landlord’s break clause and Section 195 - Minimum notice period

Section 196 to 201 - Restrictions on use of landlord’s break clause and arrangements for recovering possession

Chapter 8 - Review by Landlord of Decision to Give Notice Requiring Possession (This Chapter Applies Only to Introductory Standard Contracts and Prohibited Conduct Standard Contracts)

Section 202 – Review of decision to terminate introductory standard contracts or prohibited contracts standard contracts

Section 203 - Landlord’s review of decision to give a notice

Chapter 9 - Possession Claims: Powers of Court (This Chapter Applies to All Occupation Contracts)

Section 204 – Possession claims

Section 205 – Orders for possession

Section 206 – Effect of order for possession

Section 207 – Participation in proceedings

Section 208 – Misrepresentation or concealment of facts used to obtain order for possession

Chapter 10 – Possession Claims: Powers of Court in Relation to Discretionary Grounds (This Chapter Applies to All Occupation Contracts)

Section 209 – Breach of contract ground

Schedule 10 - Orders for Possession on discretionary grounds etc.: reasonableness

Section 210 – Estate management grounds

Schedule 11 - Suitable alternative accommodation

Section 211 – Powers to adjourn proceedings and postpone giving up of possession

Chapter 11 – Possession Claims: Powers of Court in Relation to Absolute Ground (This Chapter Applies Only to Secure Contracts)

Section 212 – Contract-holder’s notice ground

Section 213 – Review of claim made on absolute ground

Section 214 – Powers to postpone giving up of possession

Chapter 12 - Possession Claims: Powers of Court in Relation to Absolute Grounds (This Chapter Applies Only to Standard Contracts)

Section 215 – Notice grounds

Section 216 – Serious rent arrears grounds

Section 217 – Retaliatory possession claims to avoid obligations to repair etc.

Section 218 – Review of claim made on absolute ground

Section 219 – Powers to postpone giving up of possession

Chapter 13 – Abandonment (This Chapter Applies to All Occupation Contracts)

Section 220 - Possession of abandoned dwellings

Section 221 – Disposal of property

Section 222 – Contract-holder’s remedies

Section 223 – Power to vary periods of time relating to abandonment

Section 224 – Rights of entry

Chapter 14 – Joint Contract-Holders: Exclusion and Termination (This Chapter Applies to All Occupation Contracts)

Section 225 – Non-occupation: exclusion by landlord

Section 226 – Remedies for exclusion under Section 225

Section 227 – Non-occupation: exclusion by joint contract-holder

These notes refer to the Renting Homes (Wales) Act 2016 (c.1)

Section 228 – Remedies for exclusion under section 227

Section 229 – Power to vary periods of time relating to exclusion of joint contract-holder

Section 230 – Prohibited conduct: exclusion by landlord

Section 231 – Termination of occupation contract with joint contract-holders

Chapter 15 - Forfeiture and Notices to Quit Not Available

Section 232 – Forfeiture and notices to quit

PART 10 – MISCELLANEOUS

Chapter 1 – Further Provisions Relating to Occupation Contracts

Section 233 – Effect of reaching 18

Section 234 – Consultation arrangements and Section 235 - Statement of consultation arrangements

Section 236 – Form of notices, statements and other documents and Section 237 - Giving notices, statements and other documents

Chapter 2 – Trespassers: Implied Tenancies and Licences

Section 238 – Implied tenancies and licences

Chapter 3 – Tenancies and Licences Existing before Commencement of This Chapter

Sections 239 to 241 - Pre-existing licences and tenancies

Schedule 12 - Conversion of tenancies and licences existing before commencement of Chapter 3 of Part 10

Section 242 - Interpretation of Chapter

PART 11 - FINAL PROVISIONS

Sections 243 to 258

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES