



Renting Homes (Wales) Act 2016

2016 anaw 1

PART 10

MISCELLANEOUS

CHAPTER 2

TRESPASSERS: IMPLIED TENANCIES AND LICENCES

238 Implied tenancies and licences

- (1) This section applies if—
 - (a) a dwelling which is not subject to an occupation contract is occupied as a home by a person (“T”) who is a trespasser in relation to that dwelling, and
 - (b) T makes payments in respect of his or her occupation of the dwelling to a person (“P”) who would be entitled (whether alone or jointly) to bring proceedings to evict T as a trespasser.
- (2) If P accepts such payments from T—
 - (a) knowing that T is a trespasser in relation to the dwelling, or
 - (b) at a time when P ought reasonably to know that T is a trespasser in relation to the dwelling,

P is to be treated as having made a periodic contract with T immediately after the end of the relevant period.
- (3) The relevant period is the period of two months starting with the day on which P first accepts a payment from T as mentioned in subsection (2).
- (4) Subsection (2) does not apply if before the end of the relevant period P brings proceedings to evict T as a trespasser or otherwise shows an intention to treat T as a trespasser.
- (5) A contract under subsection (2) is either a tenancy or a licence.

Changes to legislation: *Renting Homes (Wales) Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (6) The tenancy or licence entitles T to occupy the dwelling as a home from the day immediately after the last day of the relevant period.
- (7) The amount of rent and rental periods are to be determined having regard to the amount and frequency of the payment or payments made by T and any other relevant circumstances.
- (8) A tenancy or licence under which T is entitled to occupy the dwelling as a home may not be implied except as provided in this section; but nothing in this section prevents P and T expressly making such a tenancy or licence before the end of the relevant period.

Commencement Information

II [S. 238](#) in force at 1.12.2022 by [S.I. 2022/906](#), [art. 2](#)

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 20(3)(ma) inserted by [2019 anaw 2 Sch. 3 para. 4\(2\)](#)
- s. 135(2)(ia) inserted by [2019 anaw 2 Sch. 3 para. 4\(3\)](#)
- s. 186A-186C inserted by [2019 anaw 2 Sch. 3 para. 4\(1\)](#)
- s. 198A inserted by [2019 anaw 2 Sch. 3 para. 5](#)