



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, Section 238 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](#)