

RENTING HOMES (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 - Occupation contracts and Landlords

Chapter 1 - Occupation Contracts

Schedule 2 - Exceptions to section 7

Part 3 - Tenancies and licences that are never occupation contracts

41. As with Part 2, this Part addresses certain tenancies and licences which are within section 7, and which would therefore be occupation contracts were it not for this Part. If a tenancy or licence is mentioned in paragraph 7, despite the fact that it is within section 7, it can never be an occupation contract.

Paragraph 7

42. A tenancy or licence is not an occupation contract if the tenant or licensee is under 18 years of age (or, where there is more than one tenant or licensees, all of them are under 18).
43. This paragraph also excludes various other tenancies from being occupation contracts. The following are excluded from being occupation contracts:
- a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies, which provides protection for business tenants when renewing or terminating their lease. These tenancies are not covered under this Act as they are not used for the purpose of renting a home.
 - a protected occupancy or a statutory tenancy within the meaning of the Rent (Agriculture) Act 1976, which affords security of tenure for agricultural workers housed by their employers, and their successors.
 - a protected tenancy or a statutory tenancy within the meaning of the Rent Act 1977; tenants under this Act have defined rights concerning the amount of rent they can be charged and security of tenure.
 - a secure tenancy that is a housing association tenancy, within the meaning of section 86 of the Rent Act 1977; tenants of a housing association under this Act have defined rights concerning the amount of rent they can be charged and security of tenure.
 - a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986; land comprised in a contract for an agricultural tenancy.
 - a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995; landlords and tenants have the right to negotiate their own provisions on rent levels

*These notes refer to the Renting Homes (Wales) Act 2016
(c.1) which received Royal Assent on 18 January 2016*

and decide whether or not they want to have rent reviews, land must be farmed throughout the life of the tenancy to qualify.

- a long tenancy (see paragraph 8).
- accommodation provided to a member of the armed forces, to a family member of a member of the armed forces or to a civilian subject to service discipline for the purposes of any of the armed forces (see paragraph 9 of Schedule 2).
- a tenancy or licence which relates to 'direct access accommodation' (see paragraph 10).

Paragraph 8

44. Long tenancies are excluded from being occupation contracts. This paragraph defines a long tenancy under the Act as being:
- a tenancy that is for a fixed term of more than 21 years (that is, at the outset the parties agreed that the tenancy would last for a specified period of time exceeding 21 years),
 - a tenancy for a term fixed by law because of a covenant or obligation for perpetual renewal (such as an option for the tenant to renew the tenancy upon expiry, for example to continually renew the tenancy every 5 years), or
 - a tenancy made under the 'right to buy' (Part 5 of the Housing Act 1985) or 'right to acquire' (section 17 of the Housing Act 1996).
45. But a tenancy that can be terminated by notice after a death is not a long tenancy (unless it is a shared ownership tenancy - see below).
46. A shared ownership tenancy is a tenancy that relates to a dwelling owned by a registered social landlord where the tenant has purchased a percentage of the property on a leasehold basis and pays rent on the un-owned share. Further shares of the un-owned part can be purchased until potentially the remaining un-owned portion is reduced to nil.

Paragraph 10

47. Direct access accommodation is accommodation provided by a community landlord or a charity registered with the Charity Commission (under the Charities Act 2011), which is provided on a very short-term basis (24 hours or less) to people who satisfy criteria set by the landlord (which will generally require the person to have an immediate need for accommodation).