



# Housing (Wales) Act 2014

2014 anaw 7

## PART 1

### REGULATION OF PRIVATE RENTED HOUSING

#### *Prohibition of letting and management without registration and licence*

#### **4 Requirement for a landlord to be registered**

- (1) The landlord of a dwelling subject to, or marketed or offered for let under, a domestic tenancy must be registered under this Part in respect of the dwelling (see sections 14 to 17), unless an exception in section 5 applies.
- (2) A landlord who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In proceedings against a landlord for an offence under subsection (2) it is a defence that the landlord has a reasonable excuse for not being registered.

#### **5 Exceptions to the requirement for a landlord to be registered**

The requirement in section 4(1) does not apply—

- (a) if the landlord has applied to the licensing authority to be registered in relation to that dwelling and the application has not been determined;
- (b) for a period of 28 days beginning with the date the landlord's interest in the dwelling is assigned to the landlord;
- (c) if the landlord takes steps to recover possession of the dwelling within a period of 28 days beginning with the date the landlord's interest in the dwelling is assigned to the landlord, for so long as the landlord continues to diligently pursue the recovery of possession;
- (d) to a landlord who is a registered social landlord;
- (e) to a landlord who is a fully mutual housing association;

- (f) to a person of a description specified for the purposes of this section in an order made by the Welsh Ministers.

## **6 Requirement for landlords to be licensed to carry out lettings activities**

- (1) The landlord of a dwelling marketed or offered for let under a domestic tenancy must not do any of the things described in subsection (2) in respect of the dwelling unless—
  - (a) the landlord is licensed to do so under this Part for the area in which the dwelling is located,
  - (b) the thing done is arranging for an authorised agent to do something on the landlord’s behalf, or
  - (c) an exception in section 8 applies.
- (2) The things are—
  - (a) arranging or conducting viewings with prospective tenants;
  - (b) gathering evidence for the purpose of establishing the suitability of prospective tenants (for example, by confirming character references, undertaking credit checks or interviewing a prospective tenant);
  - (c) preparing, or arranging the preparation, of a tenancy agreement;
  - (d) preparing, or arranging the preparation, of an inventory for the dwelling or schedule of condition for the dwelling.
- (3) The Welsh Ministers may by order—
  - (a) amend or omit the descriptions of things in subsection (2) (including things added under paragraph (b));
  - (b) add further descriptions of things to subsection (2).
- (4) A landlord who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine.
- (5) In proceedings against a landlord for an offence under subsection (4) it is a defence that the landlord has a reasonable excuse for not being licensed.
- (6) In subsection (1) “authorised agent” means—
  - (a) a person licensed to carry out lettings work and property management work under this Part for the area in which the dwelling is located,
  - (b) a local housing authority (whether or not in exercise of its functions as a local housing authority), or
  - (c) in relation to preparing, or arranging the preparation of a tenancy agreement only, a qualified solicitor (within the meaning of Part 1 of the Solicitors Act 1974), a person acting on behalf of such a solicitor or any person of a description specified in an order made by the Welsh Ministers.

## **7 Requirement for landlords to be licensed to carry out property management activities**

- (1) The landlord of a dwelling subject to a domestic tenancy must not do any of the things described in subsection (2) in respect of the dwelling unless—
  - (a) the landlord is licensed to do so under this Part for the area in which the dwelling is located,
  - (b) the thing done is arranging for an authorised agent to do something on the landlord’s behalf, or

- (c) an exception in section 8 applies.
- (2) The things are—
- (a) collecting rent;
  - (b) being the principal point of contact for the tenant in relation to matters arising under the tenancy;
  - (c) making arrangements with a person to carry out repairs or maintenance;
  - (d) making arrangements with a tenant or occupier of the dwelling to secure access to the dwelling for any purpose;
  - (e) checking the contents or condition of the dwelling, or arranging for them to be checked;
  - (f) serving notice to terminate a tenancy.
- (3) The landlord of a dwelling that was subject to a domestic tenancy, but is no longer subject to that domestic tenancy, must not check the contents or condition of the dwelling, or arrange for them to be checked, for any purpose connected with that tenancy unless—
- (a) the landlord is licensed to do so under this Part for the area in which the dwelling is located,
  - (b) the thing done is arranging for an authorised agent to do it on the landlord's behalf, or
  - (c) an exception in section 8 applies.
- (4) The Welsh Ministers may by order—
- (a) amend or omit the descriptions of things in subsection (2) or (3) (including things added under paragraph (b)) that a landlord must not do unless any of paragraphs (a) to (c) of subsection (1) or (3) applies (as the case may be);
  - (b) add further descriptions of things for the purposes of this section (including by way of amendment to this Part).
- (5) A landlord who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine.
- (6) In proceedings against a landlord for an offence under subsection (5) it is a defence that the landlord has a reasonable excuse for not being licensed.
- (7) In subsection (1) “authorised agent” means—
- (a) a person licensed to carry out lettings work and property management work under this Part for the area in which the dwelling is located,
  - (b) a local housing authority (whether or not in exercise of its functions as a local housing authority), or
  - (c) in relation to serving notice to terminate a tenancy only, a qualified solicitor (within the meaning of Part 1 of the Solicitors Act 1974), a person acting on behalf of such a solicitor or any person of a description specified in an order made by the Welsh Ministers.

## **8 Exceptions to requirements for landlords to be licensed**

The requirements in sections 6(1), 7(1) and 7(3) do not apply—

- (a) if the landlord has applied to the licensing authority to be licensed, for the period from the date of the application until it is determined by the authority or (if the authority refuses the application) until all means of appealing against

a decision to refuse an application have been exhausted and the decision is upheld;

- (b) for a period of 28 days beginning with the date the landlord's interest in the dwelling is assigned to the landlord;
- (c) if the landlord takes steps to recover possession of the dwelling within a period of 28 days beginning with the date the landlord's interest in the dwelling is assigned to the landlord, for so long as the landlord continues to diligently pursue the recovery of possession;
- (d) to a landlord who is a registered social landlord;
- (e) to a landlord who is a fully mutual housing association;
- (f) in cases specified for the purposes of this section in an order made by the Welsh Ministers.

## **9 Requirement for agents to be licensed to carry out lettings work**

- (1) A person acting on behalf of the landlord of a dwelling marketed or offered for let under a domestic tenancy must not carry out lettings work in respect of the dwelling unless the person is licensed to do so under this Part for the area in which the dwelling is located.
- (2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine.
- (3) In proceedings against a person for an offence committed under subsection (2) it is a defence that the person has a reasonable excuse for not being licensed.

## **10 Meaning of lettings work**

- (1) In this Part "lettings work" means things done by any person in response to instructions received from—
  - (a) a person seeking to find another person wishing to rent a dwelling under a domestic tenancy and, having found such a person, to grant such a tenancy ("a prospective landlord");
  - (b) a person seeking to find a dwelling to rent under a domestic tenancy and, having found such a dwelling, to obtain such a tenancy of it ("a prospective tenant");

subject to the following subsections.

- (2) "Lettings work" does not include anything in the following paragraphs (a) or (b)—
  - (a) publishing advertisements or disseminating information;
  - (b) providing a means by which—
    - (i) a prospective landlord (or the prospective landlord's agent) or a prospective tenant can, in response to an advertisement or dissemination of information, make direct contact with a prospective tenant or (as the case may be) prospective landlord (or the prospective landlord's agent);
    - (ii) a prospective landlord (or the prospective landlord's agent) and a prospective tenant can continue to communicate directly with each other;

when done by a person who—

- (c) does no other thing within subsection (1), and

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*Status: This is the original version (as it was originally enacted).*

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- (d) does no property management work in respect of the property.
- (3) “Lettings work” does not include doing any one of the things in the following paragraphs (a) to (c)—
  - (a) arranging and conducting viewings with prospective tenants;
  - (b) preparing, or arranging the preparation of, the tenancy agreement;
  - (c) preparing, or arranging the preparation of, any inventory or schedule of condition;when done by a person who—
  - (d) does no other thing in those paragraphs or anything else within subsection (1), and
  - (e) does nothing within section 12(1) in respect of the property.
- (4) “Lettings work” also does not include—
  - (a) doing things under a contract of service or apprenticeship with a landlord;
  - (b) doing things under a contract of service or apprenticeship, or a contract for services, with a person who is—
    - (i) instructed to carry out the work by a landlord, and
    - (ii) licensed to do so under this Part;
  - (c) anything done by a local housing authority (whether or not in exercise of its functions as a local housing authority);
  - (d) things of a description, or things done by a person of a description, specified for the purposes of this section in an order made by the Welsh Ministers.

## **11 Requirement for agents to be licensed to carry out property management work**

- (1) A person acting on behalf of the landlord of a dwelling subject to a domestic tenancy must not carry out property management work in respect of the dwelling unless the person is licensed to do so under this Part for the area in which the dwelling is located.
- (2) Where a dwelling was subject to a domestic tenancy, but is no longer subject to that domestic tenancy, a person acting on behalf of the landlord of the dwelling must not check the contents or condition of the dwelling, or arrange for them to be checked, for any purpose connected with that tenancy unless—
  - (a) the person is licensed to do so under this Part for the area in which the dwelling is located,
  - (b) the person does no other thing in respect of the dwelling falling within—
    - (i) section 10(1), except preparing, or arranging the preparation of, any inventory or schedule of condition, or
    - (ii) section 12(1), or
  - (c) the activity would not, by virtue of section 12(3), be property management work.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine.
- (4) In proceedings against a person for an offence committed under subsection (3) it is a defence that the person has a reasonable excuse for not being licensed.

## **12 Meaning of property management work**

- (1) In this Part, “property management work” means doing any of the following things—
- (a) collecting rent;
  - (b) being the principal point of contact for the tenant in relation to matters arising under the tenancy;
  - (c) making arrangements with a person to carry out repairs or maintenance;
  - (d) making arrangements with a tenant or occupier of the dwelling to secure access to the dwelling for any purpose;
  - (e) checking the contents or condition of the dwelling, or arranging for them to be checked;
  - (f) serving notice to terminate a tenancy.
- (2) But “property management work” does not include doing any one of the things in paragraphs (b) to (f) of subsection (1) when done by a person who—
- (a) does no other thing within subsection (1), and
  - (b) does nothing within section 10(1) in respect of the dwelling.
- (3) “Property management work” also does not include—
- (a) doing things under a contract of service or apprenticeship with a landlord;
  - (b) doing things under a contract of service or apprenticeship, or a contract for services, with a person who is—
    - (i) instructed to carry out the work by a landlord, and
    - (ii) licensed to do so under this Part;
  - (c) anything done by a local housing authority (whether or not in exercise of its functions as a local housing authority);
  - (d) things of a description, or things done by a person of a description, specified for the purposes of this section in an order made by the Welsh Ministers.

## **13 Offence of appointing an unlicensed agent**

- (1) The landlord of a dwelling marketed or offered for let under a domestic tenancy must not appoint or continue to allow a person to undertake lettings work on behalf of the landlord in relation to that dwelling, if—
- (a) the person does not hold a licence to do so under this Part for the area in which the dwelling is located, and
  - (b) the landlord knows or should know that the person does not hold such a licence.
- (2) The landlord of a dwelling subject to a domestic tenancy must not appoint or continue to allow a person to undertake property management work on behalf of the landlord in relation to that dwelling, if—
- (a) the person does not hold a licence to do so under this Part for the area in which the dwelling is located, and
  - (b) the landlord knows or should know that the person does not hold such a licence.
- (3) A landlord who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.