



Housing (Wales) Act 2014

2014 anaw 7

PART 1

REGULATION OF PRIVATE RENTED HOUSING

Introduction

1 Overview of this Part

- (1) This Part regulates—
- (a) the letting of dwellings under certain kinds of tenancy (which are defined as “domestic tenancies” in section 2), and
 - (b) the management of dwellings subject to such tenancies, by means of a system of registration and licensing.
- (2) It requires landlords to be—
- (a) registered for each dwelling subject to, or marketed or offered for let under, a domestic tenancy in respect of which they are the landlord (section 4), subject to exceptions (section 5);
 - (b) licensed to carry out certain kinds of lettings activities for dwellings marketed or offered for let under domestic tenancies (section 6), subject to exceptions (section 8);
 - (c) licensed to carry out certain kinds of property management activities for dwellings subject to a domestic tenancy (section 7), subject to exceptions (section 8).
- (3) It requires persons acting on behalf of a landlord to be licensed to carry out—
- (a) lettings work in respect of a dwelling marketed or offered for let under a domestic tenancy (section 9);
 - (b) property management work in respect of a dwelling subject to a domestic tenancy (section 11).

Status: This is the original version (as it was originally enacted).

- (4) “Lettings work” and “property management work” are defined for the purposes of the Part in sections 10 and 12; the definitions exclude certain persons and activities from the licensing requirements imposed on persons acting on behalf of landlords.
- (5) The system of registration and licensing is to be administered and enforced by a person designated by the Welsh Ministers as the licensing authority for the whole of Wales or by different persons designated as licensing authorities for different areas within Wales (section 3); provision is also made for local housing authorities to exercise certain enforcement powers.
- (6) Sections 14 to 17 and Schedule 1 provide for a register to be established and maintained by the licensing authority and for registration generally.
- (7) Sections 18 to 27 provide for licences generally; and
 - (a) a licensing authority may only grant two kinds of licence (one for landlords and the other for persons acting on behalf of landlords) and licences have effect in respect of the area for which a licensing authority is responsible (section 18);
 - (b) in order to be licensed a person must meet certain criteria, including being a fit and proper person (section 20) and requirements relating to training (see section 19).
- (8) The requirements imposed by this Part are enforced by—
 - (a) offences for contravention of registration and licensing requirements (see sections referred to in subsections (2) and (3) and sections 16(3), 23(3), 38(1) and (4) and 39(1) and (2));
 - (b) fixed penalty notices (section 29);
 - (c) rent stopping orders (sections 30 and 31);
 - (d) rent repayment orders (sections 32 and 33).
- (9) Sections 36 to 39 make provision about information required or given for the purposes of this Part.
- (10) Section 40 provides for the Welsh Ministers to issue a code of practice and provision is made for guidance (section 41) and directions (section 42).
- (11) Sections 43 to 48 make supplementary provision.
- (12) Section 49 makes further provision about interpretation and indexes the defined terms used in this Part.

2 **Meaning of key terms**

- (1) In this Part—

“domestic tenancy” (“*tenantiaeth ddomestig*”) means—

- (a) a tenancy which is an assured tenancy for the purposes of the Housing Act 1988 (which includes an assured shorthold tenancy), except where the tenancy—
 - (i) is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”), or
 - (ii) in the case of a shared ownership lease (within the meaning given by section 7(7) of the 1993 Act), would be such a lease

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

if the tenant's share (within the meaning given by that section) were 100 per cent;

- (b) a regulated tenancy for the purposes of the Rent Act 1977, or
- (c) a tenancy under which a dwelling is let as a separate dwelling and which is of a description specified for the purposes of this Part in an order made by the Welsh Ministers;

“dwelling” (“*annedd*”) means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it, where the whole of the dwelling is in Wales;

“landlord” (“*landlord*”) means—

- (a) in relation to a dwelling subject to a domestic tenancy, the immediate landlord or, in relation to a statutory tenant, the person who, apart from the statutory tenancy, would be entitled to possession of the dwelling subject to the tenancy, and
- (b) in relation to a dwelling that is not subject to a domestic tenancy, the person who would be the immediate landlord if the dwelling were let under a domestic tenancy;

“rental property” (“*eiddo ar rent*”) means a dwelling subject to, or marketed or offered for let under, a domestic tenancy.

- (2) In this section, “statutory tenant” and “statutory tenancy” mean a statutory tenant or statutory tenancy within the meaning of the Rent Act 1977.

3 Licensing authority

- (1) For the purposes of this Part, the Welsh Ministers must by order—
 - (a) designate one person as the licensing authority for the whole of Wales, or
 - (b) designate different persons as licensing authorities for different areas of Wales specified in the order, provided that each area has no more than one licensing authority and that all of the areas taken together comprise the whole of Wales.
- (2) The Welsh Ministers—
 - (a) may only designate a person who exercises functions of a public nature wholly or mainly in relation to Wales;
 - (b) may designate themselves;
 - (c) may not designate a Minister of the Crown.
- (3) The Welsh Ministers may by order make any provision they consider necessary or expedient in connection with the designation of a person under this section.
- (4) Before making an order under subsection, the Welsh Ministers must consult any person whom they propose to designate (except themselves) and such other persons as the Welsh Ministers consider appropriate.

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—

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

- (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
- (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.

Registration

14 Duty to maintain register in relation to rental properties

- (1) A licensing authority must establish and maintain a register for its area containing the information set out in Part 1 of Schedule 1.
- (2) Part 2 of Schedule 1 contains provision relating to public access to information held on the register.
- (3) The Welsh Ministers may amend Schedule 1 by order.

15 Registration by a licensing authority

- (1) An application for registration is to be made to the licensing authority for the area in which the dwelling to which the application relates is located; and the authority must register the landlord within the prescribed period if the application—
 - (a) is made in the form required by the authority,
 - (b) includes such information as is prescribed,
 - (c) includes such other information as the authority requires, and
 - (d) is accompanied by the prescribed fee.
- (2) If the landlord is registered, the licensing authority must notify the landlord—
 - (a) that the landlord is registered, and

- (b) of the registration number assigned to the landlord.
- (3) On the first occasion a landlord is registered a licensing authority must assign a registration number to the landlord.
- (4) A licensing authority may charge the landlord a further prescribed fee for continued registration—
 - (a) after the fifth anniversary of the date the landlord was registered, and
 - (b) after every fifth anniversary of the date a further prescribed fee was charged.

16 Duty to update information

- (1) A landlord who is registered under section 15 in relation to a rental property must notify the licensing authority in writing of the following changes—
 - (a) any change in the name under which the landlord is registered;
 - (b) the appointment of a person to carry out lettings work or property management work on behalf of the landlord in respect of the rental property;
 - (c) that a person who the landlord has previously appointed to carry out lettings work or property management work on behalf of the landlord in respect of the rental property has ceased to do so;
 - (d) any assignment of the landlord’s interest in the rental property;
 - (e) any prescribed changes.
- (2) A landlord must comply with the duty in subsection (1) within 28 days beginning with the first day on which the landlord knew, or should have known, of the change.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (4) In proceedings against a person for an offence committed under subsection (3) it is a defence that the person had a reasonable excuse for failing to comply.

17 Revocation of registration

- (1) A licensing authority may revoke the registration of any landlord who—
 - (a) provides false or misleading information in an application under section 15 or in notifying a change under section 16;
 - (b) contravenes section 16;
 - (c) fails to pay any further fee charged under section 15.
- (2) Before revoking a landlord’s registration a licensing authority must—
 - (a) notify the landlord of its intention to revoke the registration and the reasons for this, and
 - (b) consider any representations made by the landlord before the end of the period of 21 days beginning with the date the landlord was notified.
- (3) After revoking a landlord’s registration a licensing authority must notify the landlord—
 - (a) of the revocation and the reasons for doing so;
 - (b) of the landlord’s right of appeal.
- (4) A person whose registration is revoked may appeal against the decision to a residential property tribunal.

- (5) An appeal—
- (a) must be made before the end of the period of 28 days beginning with the date on which the person was notified of the decision (the “appeal period”);
 - (b) may be determined having regard to matters of which the licensing authority was unaware.
- (6) The tribunal may allow an appeal to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (7) The tribunal may confirm the decision of the licensing authority or direct the authority to register the landlord.
- (8) Revocation of a landlord’s registration takes effect on the day whichever of the following first occurs—
- (a) where the landlord does not appeal against the decision to revoke the registration within the appeal period, the expiry of that period;
 - (b) where the landlord appeals within the appeal period but later withdraws the appeal, the date of the withdrawal;
 - (c) where the landlord appeals within the appeal period and the residential property tribunal confirms the decision of the licensing authority, subject to paragraph (d), the date of the tribunal’s decision;
 - (d) where the landlord makes a further appeal, the date on which all means of appealing against the decision have been exhausted and the licensing authority’s decision is upheld.
- (9) Where a landlord’s registration is revoked, the licensing authority must—
- (a) notify any person recorded on the register as having been appointed by the landlord to carry out lettings work or property management work on behalf of the landlord, and
 - (b) notify the tenants or occupiers of rental properties registered under the landlord’s name.

Licensing

18 Licences that may be granted

A licensing authority may only grant the following kinds of licence under this Part—

- (a) a licence for its area for the purpose of compliance with sections 6 (requirement for landlords to be licensed to carry out lettings activities) and 7 (requirement for landlords to be licensed to carry out property management activities);
- (b) a licence for its area for the purpose of compliance with sections 9 (requirement for agents to be licensed to carry out lettings work) and 11 (requirement for agents to be licensed to carry out property management work).

19 Licence application requirements

- (1) An application for a licence must—
- (a) be made in such form as is required by the licensing authority,

- (b) provide such information as is prescribed,
 - (c) provide such other information as the authority requires, and
 - (d) be accompanied by the prescribed fee.
- (2) Before granting a licence a licensing authority must be satisfied—
- (a) that the applicant is a fit and proper person to be licensed (see section 20);
 - (b) that requirements in relation to training specified in or under regulations made by the Welsh Ministers are met or will be met (as the case may be).
- (3) Regulations made under subsection (2)(b) may (among other things)—
- (a) authorise a licensing authority to specify requirements in relation to training in respect of—
 - (i) the statutory obligations of a landlord and a tenant;
 - (ii) the contractual relationship between a landlord and a tenant;
 - (iii) the role of an agent who carries out lettings work or property management work;
 - (iv) best practice in letting and managing dwellings subject to, or marketed or offered for let under, a domestic tenancy;
 - (b) make provision for and in connection with requiring training—
 - (i) to be carried out by persons authorised to do so by the licensing authority or the Welsh Ministers;
 - (ii) to be delivered through training courses approved by the licensing authority or the Welsh Ministers;
 this includes the power to make provision for charging fees for authorisation or approval.

20 Fit and proper person requirement

- (1) In deciding whether a person is a fit and proper person to be licensed as required by section 19(2)(a), a licensing authority must have regard to all matters it considers appropriate.
- (2) Among the matters to which the licensing authority must have regard is any evidence within subsections (3) to (5).
- (3) Evidence is within this subsection if it shows that the person has—
- (a) committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements),
 - (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010, or victimised another person contrary to that Act, in or in connection with the carrying on of any business, or
 - (c) contravened any provision of the law relating to housing or landlord and tenant.
- (4) Evidence is within this subsection if—
- (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (3), and

- (b) it appears to the licensing authority that the evidence is relevant to the question whether the person is a fit and proper person to be licensed.
- (5) Evidence is within this subsection if it shows the person has previously failed to comply with a condition of a licence granted under this Part by a licensing authority.
- (6) The Welsh Ministers must give guidance to licensing authorities about deciding whether a person is a fit and proper person to be licensed as required by section 19(2)(a).
- (7) The Welsh Ministers may amend this section by order to vary the evidence to which a licensing authority must have regard in deciding whether a person is a fit and proper person to be licensed.

21 Determination of application

- (1) Where a licensing authority is satisfied that the applicant meets the requirements set out in section 19, it must grant a licence to the applicant.
- (2) After granting the licence the licensing authority must—
 - (a) assign a licence number to the licence holder;
 - (b) record the licence number in the licence;
 - (c) record the date the licence was granted in the licence;
 - (d) give the licence to the licence holder.
- (3) Where a licensing authority refuses an application, it must notify the applicant—
 - (a) that the application has been refused and the reasons why;
 - (b) of the applicant's right to appeal (see section 27).
- (4) An application must be determined by the licensing authority within a prescribed period.

22 Licence conditions

- (1) A licence must be granted subject to a condition that the licence holder complies with any code of practice issued by the Welsh Ministers under section 40.
- (2) A licensing authority may grant a licence subject to such further conditions as it considers appropriate.

23 Duty to update information

- (1) A licence holder must notify the licensing authority in writing of the following changes—
 - (a) any change in the name under which the licence holder is licensed;
 - (b) any prescribed changes.
- (2) A licence holder must comply with the duty in subsection (1) within 28 days beginning with the first day on which the licence holder knew, or should have known, of the change.
- (3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

- (4) In proceedings against a person for an offence committed under subsection (3) it is a defence that the person had a reasonable excuse for failing to comply.

24 Amendment of licence

- (1) A licensing authority may, in accordance with this section, amend any licence granted by it.
- (2) A licence may be amended to—
- (a) impose new conditions;
 - (b) remove or change existing conditions (other than the requirement to comply with any code of practice issued by the Welsh Ministers).
- (3) But before deciding to amend a licence a licensing authority must—
- (a) notify the licence holder of its intention to amend the licence and the reasons for this, and
 - (b) consider any representations made by the licence holder before the end of the period of 21 days beginning with the date the licence holder was notified.
- (4) Subsection (3)(b) does not apply to an amendment if—
- (a) the licence holder consents to it, or
 - (b) the licensing authority considers that there are exceptional circumstances which mean that it needs to be made without delay.
- (5) After amending a licence the licensing authority must notify the licence holder of—
- (a) the amendment and the reasons for it;
 - (b) except where the licence holder has consented to the amendment, information about the licence holder’s right of appeal (see section 27).
- (6) An amendment to a licence takes effect on the day whichever of the following first occurs—
- (a) where the licence holder has consented, when the licensing authority notifies the licence holder under subsection (5);
 - (b) where the licence holder does not appeal against the decision to amend the licence within the appeal period, the expiry of that period;
 - (c) where the licence holder appeals within the appeal period but later withdraws the appeal, the date of the withdrawal;
 - (d) where the licence holder appeals within the appeal period and the residential property tribunal confirms the decision of the licensing authority to amend the licence, subject to paragraph (e), the date of the tribunal’s decision;
 - (e) where the licence holder makes a further appeal, the date on which all means of appealing against the decision have been exhausted and the licensing authority’s decision is upheld.
- (7) The “appeal period” for the purposes of subsection (6) is the period mentioned in section 27(3)(a) (licensing appeals).

25 Revocation of licence

- (1) A licensing authority may revoke a licence if—
- (a) the licence holder has breached a condition of the licence;

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

- (b) the authority is no longer satisfied that the licence holder is a fit and proper person to hold a licence;
 - (c) the licence holder has contravened section 23 (licence holder’s duty to update information);
 - (d) the licence holder and the licensing authority have agreed that the licence should be revoked.
- (2) But before revoking a licence a licensing authority must—
- (a) notify the licence holder of its intention to revoke the licence and the reasons for this, and
 - (b) consider any representations made by the licence holder before the end of the period of 21 days beginning with the date the licence holder was notified.
- (3) Subsection (2)(b) does not apply—
- (a) if the licence holder consents to the revocation, or
 - (b) where the licensing authority considers that there are exceptional circumstances which mean that it needs to be revoked without delay.
- (4) After revoking a licence the licensing authority must notify the licence holder—
- (a) of the revocation and the reasons for it;
 - (b) of the licence holder’s right of appeal (see section 27).
- (5) Revocation of a licence takes effect on the day whichever of the following first occurs—
- (a) the licence holder contacts the licensing authority consenting to the revocation;
 - (b) where the licence holder does not appeal against the decision to revoke the licence within the appeal period, the expiry of that period;
 - (c) where the licence holder appeals within the appeal period but later withdraws the appeal, the date of the withdrawal;
 - (d) where the licence holder appeals within the appeal period and the residential property tribunal confirms the decision of the licensing authority to revoke the licence, subject to paragraph (e), the date of the tribunal’s decision;
 - (e) where the licence holder makes a further appeal, the date on which all means of appealing against the decision have been exhausted and the licensing authority’s decision is upheld.
- (6) The “appeal period” for the purposes of subsection (5) is the period mentioned in section 27(3)(a) (licensing appeals).
- (7) Where a person’s licence to carry out lettings work and property management work on behalf of a landlord is revoked, the licensing authority must notify any landlord recorded on its register as having appointed that person.
- (8) Where a landlord’s licence is revoked, the licensing authority must notify the tenants or occupiers of rental property registered under the landlord’s name.

26 Expiry and renewal of licence

- (1) A licence expires at the end of a period of 5 years beginning with the date it was granted, unless the licence holder makes an application to renew the licence in accordance with subsection (2).

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

- (2) A licence holder may apply to renew the licence during the period of 84 days before the date the licence would otherwise expire.
- (3) Where an application is made to renew a licence in accordance with subsection (2) the licence does not expire until the application is decided and expires only if the application is refused.
- (4) An application for renewal of a licence is to be made and determined in accordance with sections 19 (licence application requirements) to 21 (determination of application).
- (5) But where a licensing authority renews a licence, the requirement in subsection (2)(a) of section 21 to assign a licence number to the licence holder does not apply.
- (6) If an application to renew a licence is refused, the existing licence expires on whichever of the following dates first occurs—
 - (a) where the licence holder does not appeal against the refusal within the appeal period, the date of expiry of that period;
 - (b) where the licence holder appeals within the appeal period but later withdraws the appeal, the date of the withdrawal;
 - (c) where the licence holder appeals within the appeal period and the residential property tribunal confirms the decision of the licensing authority, the date of the tribunal's decision (subject to paragraph (d));
 - (d) where the licence holder makes a further appeal, the date on which all means of appealing against the decision have been exhausted and the licensing authority's decision is upheld.
- (7) The “appeal period” for the purposes of subsection (6) is the period mentioned in section 27(3)(a) (licensing appeals).
- (8) A licence expires and any renewal application made by the licence holder is treated as having been withdrawn where a licence holder—
 - (a) dies;
 - (b) in the case of a body corporate, is dissolved.

27 Licensing appeals

- (1) An applicant for a licence or, as the case may be, the holder of a licence may appeal against the decisions of a licensing authority listed in subsection (2) to a residential property tribunal.
- (2) The decisions are—
 - (a) granting a licence subject to a condition, other than the requirement to comply with any code of practice issued by the Welsh Ministers;
 - (b) refusing an application for a licence;
 - (c) amending a licence;
 - (d) revoking a licence.
- (3) An appeal—
 - (a) must be made before the end of the period of 28 days beginning with the date the applicant was notified of the decision (the “appeal period”);
 - (b) may be determined having regard to matters of which the licensing authority was unaware.

- (4) The tribunal may allow an appeal to be made to it after the end of the appeal period if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (5) The tribunal may confirm the decision of the licensing authority or alternatively—
 - (a) in the case of a decision to grant a licence subject to a condition, direct the authority to grant a licence on such terms as the tribunal considers appropriate;
 - (b) in the case of a decision to refuse an application for a licence, direct the authority to grant a licence on such terms as the tribunal considers appropriate;
 - (c) in the case of a decision to amend a licence, direct the authority not to amend the licence or to amend the licence on such terms as the tribunal considers appropriate;
 - (d) in the case of a decision to revoke a licence, to quash that decision.
- (6) A licence granted by a licensing authority following a direction of a tribunal under this section is to be treated as having been granted by the authority under section 21(1).

Enforcement

28 Prosecution by a licensing authority or a local housing authority

- (1) A licensing authority may bring criminal proceedings in respect of an offence under —
 - (a) section 4(2), 6(4), 7(5), 9(2), 11(3) or 13(3) if the alleged offence arises in respect of a dwelling in the area for which it is the licensing authority;
 - (b) section 16(3) or 23(3), in respect of information to be provided to the licensing authority;
 - (c) subsection (1) or (4) of section 38, in respect of anything required by a notice given by a person authorised by the authority;
 - (d) subsection (1) or (2) of section 39, in respect of information supplied to the authority.
- (2) A local housing authority that is not the licensing authority for its area may, with the consent of the licensing authority for the area, bring criminal proceedings in respect of an offence under section 4(2), 6(4), 7(5), 9(2), 11(3) or 13(3), if the alleged offence arises in respect of a dwelling in its area.
- (3) A licensing authority may give its consent under subsection (2) generally or in specific cases.
- (4) This section does not affect—
 - (a) any other power of the person designated under section 3 to bring legal proceedings;
 - (b) section 222 of the Local Government Act 1972 (power of local authorities to prosecute or defend legal proceedings).

29 Fixed penalty notices

- (1) Where on any occasion a person authorised in writing for the purpose of this section by a licensing authority has reason to believe that a person has committed an offence under this Part (other than an offence under section 13(3) or section 38(4)), the

authorised person may, by notice, offer the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the authority.

- (2) Where a person is given a notice under this section in respect of an offence—
 - (a) no proceedings may be issued for that offence before the expiration of the period of 21 days following the date of the notice;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (3) A notice under this section must—
 - (a) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,
 - (b) state the period during which proceedings will not be taken for the offence,
 - (c) state the amount of the fixed penalty, and
 - (d) state the person to whom and the address at which the fixed penalty may be paid.
- (4) The fixed penalty payable to a licensing authority under this section is £150 unless the offence is an offence attracting an unlimited fine; in which case, the fixed penalty payable is £250.
- (5) The Welsh Ministers may amend subsection (4) by order.
- (6) Payment of a fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (3)(d) at the address so mentioned; but this does not prevent payment by another method.
- (7) Where a letter is posted in accordance with subsection (6) payment is to be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post.
- (8) In any proceedings a certificate—
 - (a) which purports to be signed on behalf of a person authorised for this purpose by the licensing authority, and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
 is evidence of the facts stated.
- (9) A licensing authority may use its fixed penalty receipts only for the purposes of its functions relating to the enforcement of this Part.
- (10) In this section, “licensing authority” means—
 - (a) in the case of an offence under section 4(2), 6(4), 7(5), 9(2) or 11(3), the licensing authority for the area in which the dwelling to which the offence relates is located;
 - (b) in the case of an offence under section 16(3) or 23(3), the licensing authority to which the information to which the offence relates was provided;
 - (c) in the case of an offence under section 38(1), the licensing authority which authorised the person who gave the relevant notice;
 - (d) in the case of an offence under section 39(1) or (2), the licensing authority to which the information was supplied.

- (11) A local housing authority that is not the licensing authority for its area may, with the consent of the licensing authority for the area, exercise the functions of the licensing authority under this section concurrently with the licensing authority; but only in respect of the offences mentioned in subsection (10)(a).
- (12) And where a local housing authority exercises functions under this section by virtue of subsection (11), the references in subsections (1), (4), (8), (9) and (10)(a) to “licensing authority” are to be read as if they were references to the local housing authority.

30 Rent stopping orders

- (1) A residential property tribunal may, in accordance with this section, make an order (a “rent stopping order”) in relation to a dwelling subject to a domestic tenancy on an application made to it by—
 - (a) the licensing authority for the area in which the dwelling is located, or
 - (b) the local housing authority for the area in which the dwelling is located.
- (2) But a local housing authority may not make an application under subsection (1) without the consent of the licensing authority mentioned in paragraph (a) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.
- (3) Where the tribunal makes a rent stopping order—
 - (a) periodical payments payable in connection with a domestic tenancy of the dwelling which relate to a period, or part of a period, falling between a date specified in the order (the “stopping date”) and a date specified by the tribunal when the order is revoked (see section 31(4)) are stopped,
 - (b) an obligation under a domestic tenancy to pay an amount stopped by the order is treated as being met,
 - (c) all other rights and obligations under such a tenancy continue unaffected,
 - (d) any periodical payments stopped by the order but made by a tenant of the dwelling (whether before or after the stopping date) must be repaid by the landlord, and
 - (e) the authority which made the application for the order must give a copy of it to—
 - (i) the landlord of the dwelling to which the order relates;
 - (ii) the tenant of the dwelling.
- (4) The tribunal may make a rent stopping order only if it is satisfied of the matters mentioned in subsections (5) and (6).
- (5) The tribunal must be satisfied that an offence is being committed under section 7(5) or 13(3) in relation to the dwelling (whether or not a person has been convicted or charged for the offence).
- (6) The tribunal must be satisfied that—
 - (a) the authority making the application for the order has given the landlord and the tenant of the dwelling a notice (a “notice of intended proceedings”)—
 - (i) explaining that the authority is proposing to apply for a rent stopping order,
 - (ii) setting out the reasons why it proposes to do so,
 - (iii) explaining the effect of a rent stopping order,

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

- (iv) explaining how a rent stopping order may be revoked, and
 - (v) in the case of a notice given to a landlord, inviting the landlord to make representations to the authority within a period of not less than 28 days specified in the notice,
 - (b) the period for making representations has expired, and
 - (c) the authority considered any representations made to it within that period by the landlord.
- (7) The tribunal may not specify a stopping date for the purpose of subsection (3)(a) which precedes the date on which the rent stopping order is made.
- (8) An amount payable by virtue of subsection (3)(d) which is not repaid is recoverable by the tenant as a debt due to the tenant from the landlord.
- (9) In subsection (5), the reference to an offence committed under section 13(3) does not include an offence committed in consequence of a contravention of subsection (1) of that section.

31 Revocation of rent stopping orders

- (1) A residential property tribunal may, in accordance with this section, revoke a rent stopping order made in respect of a dwelling under section 30.
- (2) The tribunal may revoke an order only—
- (a) on an application by—
 - (i) the licensing authority for the area in which the dwelling is located,
 - (ii) the local housing authority for the area in which the dwelling is located, or
 - (iii) the landlord of the dwelling, and
 - (b) if it is satisfied that an offence under section 7(5) or 13(3) is no longer being committed in relation to the dwelling.
- (3) But a local housing authority may not make an application under subsection (2) without the consent of the licensing authority mentioned in paragraph (a)(i) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.
- (4) Where the tribunal revokes a rent stopping order, periodical payments in connection with a domestic tenancy of the dwelling become payable from a date specified by the tribunal (which may, if the tribunal considers it appropriate, be a date earlier than the date on which the order is revoked).
- (5) But revocation of a rent stopping order does not make a person liable to pay any periodical payments which, by virtue of the order, were stopped in respect of the period beginning with the stopping date (see section 30(3)(a)) and ending with the date specified by the tribunal when revoking the order.
- (6) If a rent stopping order is revoked following an application made under subsection (2) (a)(i) or (ii), the authority which made the application must notify the following persons that the order is revoked and of the effect of the revocation—
- (a) any tenant or occupier of the dwelling, and
 - (b) the landlord of the dwelling.

- (7) Where revocation occurs following an application made by a landlord, the licensing authority for the area in which the dwelling is located must ensure that any tenant or occupier of the dwelling is notified that the order is revoked and of the effect of the revocation.
- (8) In subsection (2)(b)—
- (a) the reference to an offence section 7(5) does not include an offence committed in consequence of a contravention of subsection (3) of that section, and
 - (b) the reference to an offence committed under 13(3) does not include an offence committed in consequence of a contravention of subsection (1) of that section.

32 Rent repayment orders

- (1) A residential property tribunal may, in accordance with this section and section 33, make an order (a “rent repayment order”) in relation to a dwelling on an application made to it by—
- (a) the licensing authority for the area in which the dwelling is located,
 - (b) the local housing authority for the area in which the dwelling is located, or
 - (c) a tenant of the dwelling.
- (2) But a local housing authority may not make an application under subsection (1) without the consent of the licensing authority mentioned in paragraph (a) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.
- (3) A “rent repayment order” is an order made in relation to a dwelling which requires the appropriate person (see subsection (9)) to pay to the applicant such amount in respect of the relevant award or awards of universal credit or the housing benefit paid as mentioned in subsection (5)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (7)(b), as is specified in the order.
- (4) The tribunal may make a rent repayment order only if it is satisfied—
- (a) where the applicant is the licensing authority or a local housing authority (as the case may be), of the matters mentioned in subsection (5);
 - (b) where the applicant is a tenant, of the matters mentioned in subsection (7).
- (5) The tribunal must be satisfied—
- (a) that at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (6) an offence under section 7(5) or 13(3) has been committed in relation to the dwelling (whether or not a person has been charged or convicted for the offence);
 - (b) that—
 - (i) one or more relevant awards of universal credit have been paid (to any person), or
 - (ii) housing benefit has been paid (to any person) in respect of periodical payments payable in connection with a domestic tenancy of the dwelling,during any period during which it appears to the tribunal that such an offence was being committed, and
 - (c) the requirements of subsection (6) have been complied with in relation to the application.

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

- (6) Those requirements are—
- (a) that the authority making the application must have given the appropriate person a notice (a “notice of intended proceedings”)—
 - (i) informing the person that the authority is proposing to make an application for a rent repayment order,
 - (ii) setting out the reasons why it proposes to do so,
 - (iii) stating the amount that it will seek to recover under that subsection and how that amount is calculated, and
 - (iv) inviting the person to make representations to the authority within a period of not less than 28 days specified in the notice;
 - (b) that period must have expired, and
 - (c) that the authority must have considered any representations made to it within that period by the appropriate person.
- (7) The tribunal must be satisfied that—
- (a) a person has been convicted of an offence under section 7(5) or 13(3) in relation to the dwelling, or that a rent repayment order has required a person to make a payment in respect of—
 - (i) one or more relevant awards of universal credit, or
 - (ii) housing benefit paid in connection with a tenancy of the dwelling;
 - (b) the tenant paid to the appropriate person (whether directly or otherwise) periodical payments in respect of the tenancy of the dwelling during any period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling, and
 - (c) the application is made within the period of 12 months beginning with—
 - (i) the date of the conviction or order, or
 - (ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.
- (8) In this section—
- (a) references to an offence under section 7(5) do not include an offence committed in consequence of a contravention of subsection (3) of that section, and
 - (b) references to an offence committed under section 13(3) do not include an offence committed in consequence of a contravention of subsection (1) of that section.
- (9) In this section—
- “appropriate person” (*“person priodol”*), in relation to any payment of universal credit or housing benefit or periodical payment in connection with a domestic tenancy of a dwelling, means the person who at the time of the payment was entitled to receive, on that person’s own account, periodical payments in connection with the tenancy;
- “housing benefit” (*“budd-dal tai”*) means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992;
- “relevant award of universal credit” (*“dyfarniad perthnasol o gredyd cynhwysol”*) means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations

2013 (housing costs element for renters) (SI 2013/376) or any corresponding provision replacing that Schedule, in respect of periodical payments in connection with a domestic tenancy of the dwelling;

“tenant” (“*tenant*”), in relation to any periodical payment, means a person who was a tenant at the time of the payment (and “tenancy” has a corresponding meaning).

- (10) For the purposes of this section an amount which—
- (a) is not actually paid by a tenant but is used to discharge the whole or part of the tenant’s liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and
 - (b) is not an amount of universal credit or housing benefit,
- is to be regarded as an amount paid by the tenant in respect of that periodical payment.

33 Rent repayment orders: further provision

(1) Where, on an application by the licensing authority or a local housing authority (as the case may be) for a rent repayment order, the tribunal is satisfied—

- (a) that a person has been convicted of an offence under section 7(5) or 13(3) in relation to the dwelling to which the application relates, and
- (b) that—
 - (i) one or more relevant awards of universal credit were paid (whether or not to the appropriate person), or
 - (ii) housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with a domestic tenancy of the dwelling during any period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling in question,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority which made the application the amount mentioned in subsection (2); but this is subject to subsections (3), (4) and (8).

(2) The amount is—

- (a) an amount equal to—
 - (i) where one relevant award of universal credit was paid as mentioned in subsection (1)(b)(i), the amount included in the calculation of that award under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations 2013 (housing costs element for renters) (SI 2013/376) or any corresponding provision replacing that Schedule, or the amount of the award if less, or
 - (ii) if more than one such award was paid as mentioned in subsection (1)(b)(i), the sum of the amounts included in the calculation of those awards as referred to in sub-paragraph (i), or the sum of the amounts of those awards if less, or
- (b) an amount equal to the total amount of housing benefit paid as mentioned in subsection (1)(b)(ii) (as the case may be).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (1) (“the rent total”) is less than the amount mentioned in subsection (2), the amount required to be paid

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

by virtue of a rent repayment order made in accordance with subsection (1) is limited to the rent total.

- (4) A rent repayment order made in accordance with subsection (1) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.
- (5) In a case where subsection (1) does not apply, the amount required to be paid by virtue of a rent repayment order is to be such amount as the tribunal considers reasonable in the circumstances; but this is subject to subsections (6) to (8).
- (6) In such a case, the tribunal must take into account the following matters—
- (a) the total amount of relevant payments paid in connection with a tenancy of the dwelling during any period during which it appears to the tribunal that an offence was being committed in relation to the dwelling under section 7(5) or 13(3);
 - (b) the extent to which that total amount—
 - (i) consisted of, or derived from, payments of relevant awards of universal credit or housing benefit, and
 - (ii) was actually received by the appropriate person;
 - (c) whether the appropriate person has at any time been convicted of an offence under section 7(5) or 13(3);
 - (d) the conduct and financial circumstances of the appropriate person; and
 - (e) where the application is made by a tenant, the conduct of the tenant.
- (7) In subsection (6) “relevant payments” means—
- (a) in relation to an application by the licensing authority or a local housing authority (as the case may be), payments of relevant awards of universal credit, housing benefit or periodical payments payable by tenants;
 - (b) in relation to an application by a tenant, periodical payments payable by the tenant, less—
 - (i) where one or more relevant awards of universal credit were payable during the period in question, the amount mentioned in subsection (2) (a) in respect of the award or awards that related to the tenancy during that period, or
 - (ii) any amount of housing benefit payable in respect of the tenancy of the dwelling during the period in question.
- (8) A rent repayment order may not require the payment of any amount which—
- (a) where the application is made by the licensing authority or a local housing authority (as the case may be), is in respect of any time falling outside the period of 12 months ending with the date of the notice of intended proceedings given under section 32(6), or
 - (b) where the application is made by a tenant, is in respect of any time falling outside the period of 12 months ending with the date of the tenant’s application under section 32(1);
- and the period to be taken into account under subsection (6)(a) is restricted accordingly.

- (9) Any amount payable by virtue of a rent repayment order is recoverable as a debt due to the licensing authority, local housing authority or tenant (as the case may be) from the appropriate person.
- (10) And an amount payable to the licensing authority or a local housing authority by virtue of such an order does not, when recovered by it, constitute an amount of universal credit or housing benefit (as the case may be) recovered by the authority.
- (11) Subsections (8), (9) and (10) of section 32 apply for the purposes of this section as they apply for the purposes of section 32.

34 Power for Welsh Ministers to make regulations in relation to sections 32 and 33

- (1) The Welsh Ministers may by regulations make such provision as they consider appropriate for supplementing the provisions of sections 32 and 33.
- (2) Regulations made under subsection (1) may, for example, make provision—
 - (a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of universal credit or housing benefit or otherwise);
 - (b) requiring or authorising amounts received by the licensing authority or local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

35 Offences by bodies corporate

- (1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of—
 - (a) a director, manager, or secretary of the body corporate, or
 - (b) a person purporting to act in such a capacity,that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) The reference to the director, manager or secretary of the body corporate includes a reference—
 - (a) to any similar officer of the body;
 - (b) where the body is a body corporate whose affairs are managed by its members, to any officer or member of the body.

Information

36 Requests for information from authorities and use of information by authorities

- (1) If a licensing authority requests that a local housing authority provides it with information to which subsection (2) applies and which it requires for the purpose of exercising its functions under this Part, the local housing authority must comply with the request unless the local housing authority considers that doing so would—
 - (a) be incompatible with the local housing authority's own duties, or
 - (b) otherwise have an adverse effect on the exercise of the local housing authority's functions.

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

- (2) This subsection applies to any information which has been obtained by a local housing authority in the exercise of its—
 - (a) functions as the local housing authority;
 - (b) functions under Part 1 of the Local Government Finance Act 1992 (council tax).
- (3) Information obtained by a local housing authority under section 134 of the Social Security Administration Act 1992 (housing benefit) before the repeal of that section by Schedule 14 to the Welfare Reform Act 2012 is to be treated as information to which subsection (2) applies.
- (4) If a licensing authority requests that another licensing authority provide it with information to which subsection (5) applies and which it requires for the purpose of exercising its functions under this Part, the other authority must comply with the request unless the other authority considers that doing so would—
 - (a) be incompatible with its own duties, or
 - (b) otherwise have an adverse effect on the exercise of its functions.
- (5) This subsection applies to any information which has been obtained by a licensing authority in the exercise of its functions under this Part.
- (6) A licensing authority may use any information to which subsection (2) or (5) applies (whether or not obtained under subsection (1) or (4)) for any purpose connected with the exercise of the authority's functions under this Part.
- (7) If a local housing authority requests that a licensing authority provide it with information to which subsection (5) applies and which it requires for the purpose of exercising its functions under this Part, the licensing authority must comply with the request unless the licensing authority considers that doing so would—
 - (a) be incompatible with its own duties, or
 - (b) otherwise have an adverse effect on the exercise of its functions.
- (8) A local housing authority may use any information to which subsection (2) or (5) applies (whether or not obtained under (7)) for any purpose connected with the exercise of the authority's functions under this Part.

37 Power to require documents to be produced or information given

- (1) A person authorised in writing by a licensing authority may exercise the powers conferred by subsections (2) and (3) in relation to documents or information (as the case may be) reasonably required by the authority—
 - (a) for any purpose connected with the exercise of any of the authority's functions under this Part, or
 - (b) for the purpose of investigating whether any offence has been committed under this Part.
- (2) A person authorised under subsection (1) may give a notice to a relevant person requiring that person—
 - (a) to produce any documents which—
 - (i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and
 - (ii) are in the person's custody or under the person's control, and

- (b) to produce them at a time and place, and to a person, specified in the notice.
- (3) A person authorised under subsection (1) may give a notice to a relevant person requiring that person—
 - (a) to give any information which—
 - (i) is specified or described in the notice, or falls within a category of information which is specified or described in the notice, and
 - (ii) is known to the person, and
 - (b) to give it in a form and manner specified in the notice.
- (4) The notice under subsection (2) or (3) must include information about the possible consequences of not complying with the notice.
- (5) The person to whom any document is produced in accordance with a notice under subsection (2) or (3) may copy the document.
- (6) No person may be required under this section to produce any document or give any information which the person would be entitled to refuse to provide in proceedings in the High Court on grounds of legal professional privilege.
- (7) In this section “document” includes information recorded otherwise than in legible form, and in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.
- (8) In this section “relevant person” means a person within any of the following paragraphs—
 - (a) a person who applies for a licence under this Part or who is the holder of a licence under this Part;
 - (b) a person who has an estate or interest in rental property;
 - (c) a person who is, or is proposing to be, involved in the letting or management of a rental property;
 - (d) a person who occupies a rental property.

38 Enforcement of powers to obtain information

- (1) A person who fails to do anything required of that person by a notice under section 37 commits an offence.
- (2) In proceedings against a person for an offence under subsection (1) it is a defence that the person had a reasonable excuse for failing to comply with the notice.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A person who intentionally alters, suppresses or destroys any document which the person has been required to produce by a notice under section 37 commits an offence.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine.
- (6) In this section “document” includes information recorded otherwise than in legible form, and in relation to information so recorded—
 - (a) the reference to the production of a document is a reference to the production of a copy of the information in legible form, and

- (b) the reference to suppressing a document includes a reference to destroying the means of reproducing the information.

39 False or misleading information

- (1) A person who—
 - (a) supplies any information to a licensing authority in connection with any of its functions under this Part which is false or misleading, and
 - (b) knows that it is false or misleading or is reckless as to whether it is false or misleading,commits an offence.
- (2) A person who—
 - (a) supplies any information to another person which is false or misleading,
 - (b) knows that it is false or misleading or is reckless as to whether it is false or misleading, and
 - (c) knows that the information is to be used for the purpose of supplying information to a licensing authority in connection with any of its functions under this Part,commits an offence.
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.
- (4) In this section “false or misleading” means false or misleading in any material respect.

Powers of the Welsh Ministers

40 Code of practice

- (1) The Welsh Ministers must issue a code of practice setting standards relating to letting and managing rental properties.
- (2) Standards under subsection (1) may (among other things) be set in relation to training.
- (3) The Welsh Ministers may—
 - (a) issue a code of practice which, in part or in whole, applies only to specified persons or cases, or applies differently to different persons or cases;
 - (b) amend or withdraw a code issued.
- (4) Before issuing or amending a code of practice the Welsh Ministers must take reasonable steps to consult—
 - (a) persons involved in letting and managing rental properties and persons occupying rental properties under a tenancy, or
 - (b) persons whom the Welsh Ministers consider to represent the interests of the persons mentioned in paragraph (a),on a draft of the code or a draft of an amended code (“the proposed code”).
- (5) If the Welsh Ministers wish to proceed with the proposed code (with or without modifications) they must lay a copy before the National Assembly for Wales.

- (6) The Welsh Ministers must not issue the proposed code in the form of that draft unless it is approved by resolution of the National Assembly for Wales.
- (7) Once approved the code or amended code comes into force on the date appointed by order of the Welsh Ministers.
- (8) The Welsh Ministers may withdraw a code made under this section in an amended code or by direction.
- (9) A code approved by the National Assembly for Wales may not be withdrawn unless a proposal to that effect is approved by resolution of the National Assembly.
- (10) The Welsh Ministers must publish each code or amended code issued under this section.

41 Guidance

- (1) In exercising its functions under this Part, a licensing authority must have regard to any guidance given by the Welsh Ministers.
- (2) In exercising functions under this Part other than as a licensing authority, a local housing authority must have regard to any guidance given by the Welsh Ministers.
- (3) The Welsh Ministers may—
 - (a) give guidance under this Part generally or to authorities of a specified description;
 - (b) revise guidance given under this Part by giving further guidance;
 - (c) revoke guidance given under this Part by giving further guidance or by notice.
- (4) The Welsh Ministers must publish any guidance under this Part or notice under this section.
- (5) Before giving, revising or revoking guidance under this Part, the Welsh Ministers must consult such persons as the Welsh Ministers consider appropriate.
- (6) Consultation undertaken before the coming into force this section may satisfy the requirement in subsection (5).

42 Directions

- (1) In exercising its functions under this Part, a licensing authority must comply with any directions given by the Welsh Ministers.
- (2) In exercising functions under this Part other than as a licensing authority, a local housing authority must comply with any directions given by the Welsh Ministers.
- (3) A direction under subsection (2) may be given generally or to authorities of a specified description.
- (4) A direction given under this section—
 - (a) may be varied or revoked by a subsequent direction;
 - (b) must be published.

Supplementary

43 Activity in contravention of this Part: effect on tenancy agreements

- (1) No rule of law relating to the validity or enforceability of contracts in circumstances involving illegality is to affect the validity or enforceability of any provision of a domestic tenancy of a dwelling in respect of which a contravention of this Part has occurred.
- (2) But periodical payments—
 - (a) payable in connection with such a tenancy may be stopped in accordance with section 30 (rent stopping orders), and
 - (b) paid in connection with such a tenancy may be recovered in accordance with sections 32 and 33 (rent repayment orders).

44 Restriction on terminating tenancies

- (1) A section 21 notice may not be given in relation to a dwelling subject to a domestic tenancy which is an assured shorthold tenancy if—
 - (a) the landlord is not registered in respect of the dwelling, or
 - (b) the landlord is not licensed under this Part for the area in which the dwelling is located and the landlord has not appointed a person who is licensed under this Part to carry out all property management work in respect of the dwelling on the landlord's behalf.
- (2) But subsection (1) does not apply for the period of 28 days beginning with the day on which the landlord's interest in the dwelling is assigned to the landlord.
- (3) In this section, a "section 21 notice" means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988.

45 Landlords who are trustees

If trustees constitute a landlord, the landlord may be registered or licensed for the purposes of this Part under a name which is a collective description of the trustees as the trustees of the trust in question.

46 Regulations about fees

- (1) Regulations made under this Part which prescribe the amount of a fee payable by a person in connection with applications to be registered or licensed may provide that the fee is to be—
 - (a) an amount stated in the regulations;
 - (b) determined by a person or means specified in the regulations.
- (2) Such regulations may prescribe a different fee for different persons.

47 Information about applications

A licensing authority must publish information about its requirements relating to—

- (a) the form and content of applications to be registered and licensed;
- (b) information to be provided when making applications.

48 Giving notification etc. under this Part

- (1) This section applies where a provision of this Part requires or authorises (in whatever terms) a relevant person to—
 - (a) notify a person of something, or
 - (b) give a document to a person (including a notice or a copy of a document).
- (2) The notification or document may be given to the person in question—
 - (a) by delivering it to the person,
 - (b) by sending it by post to the person’s proper address,
 - (c) by leaving it at the person’s proper address, or
 - (d) if the conditions in subsection (4) are met, by sending it electronically.
- (3) The notification or document may be given to a body corporate by being given to the secretary or clerk of that body.
- (4) A relevant person may send a notification or document to a person electronically only if the following requirements are met—
 - (a) the person to whom the notification or document is to be given must have—
 - (i) indicated to the relevant person a willingness to receive the notification or document electronically, and
 - (ii) provided the relevant person with an address suitable for that purpose, and
 - (b) the relevant person must send the notification or document to that address.
- (5) For the purposes of this section and section 7 of the Interpretation Act 1978 (references to service by post) in its application to this section, the proper address of a person is—
 - (a) in the case of a body corporate, the address of the registered or principal office of the body;
 - (b) in any other case, the last known address of the person.
- (6) A notification or document given to a person by leaving it at the person’s proper address is to be treated for the purposes of this Part as having been given at the time at which it was left at that address.
- (7) Each of the following is a “relevant person” for the purposes of this section—
 - (a) a licensing authority;
 - (b) a local housing authority exercising functions under this Part other than as a licensing authority;
 - (c) a person who, by virtue of a written authorisation, exercises functions under this Part on behalf of a licensing authority or a local housing authority of the kind mentioned in paragraph (b).

General

49 Interpretation of this Part and index of defined terms

- (1) In this Part—
 - “domestic tenancy” (“*tenantiaeth ddomestig*”) has the meaning given by section 2;
 - “dwelling” (“*annedd*”) has the meaning given by section 2;

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

“fully mutual housing association” (“*cymdeithas dai cwbl gydfuddiannol*”) has the meaning given by section 1(2) of the Housing Association Act 1985;

“landlord” (“*landlord*”) has the meaning given by section 2;

“lettings work” (“*gwaith gosod*”) has the meaning given by section 10;

“licensing authority” (“*awdurdod trwyddedu*”) means a person designated by order under section 3;

“periodical payments” (“*taliadau cyfnodol*”) means payments by way of rent or service charge;

“prescribed” (“*rhagnodedig*”) means prescribed in regulations made by the Welsh Ministers;

“property management work” (“*gwaith rheoli eiddo*”) has the meaning given by section 12;

“registered social landlord” (“*landlord cymdeithasol cofrestredig*”) means a social landlord registered under Part 1 of the Housing Act 1996;

“rental property” (“*eiddo ar rent*”) has the meaning given by section 2.

- (2) In this Part, a reference to assignment of an interest to a landlord—
- (a) includes any conveyance other than a mortgage or charge, and
 - (b) if trustees constitute the landlord, does not include a change in the persons who are for the time being the trustees of the trust.
- (3) In this Part—
- (a) any reference to an application for a licence includes a reference to an application for renewal of a licence, and
 - (b) any reference to the grant of a licence by a licensing authority includes a reference to renewal of a licence;
- and related expressions are to be construed accordingly.