

HOUSING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 Regulation of Private Rented Housing

Section 2 – Meaning of key terms

3. This section sets out the meaning of key terms used in Part 1 of the Act and makes it clear which type of tenancies are to be covered by the definition of “domestic tenancy”. The section further clarifies that the provisions of this Part apply only to “rental properties” located entirely in Wales.
4. [Section 2](#) also gives the power to Welsh Ministers, by order, to specify other forms of tenancy which are to be included in the definition of “domestic tenancy” and which would therefore become subject to the registration and licensing regime under Part 1.

Section 3 – Licensing authority

5. The Welsh Ministers are required to designate a licensing authority for the purposes of Part 1 of the Act; the licensing authority being the person or body carrying out the functions of maintaining a register, administering landlord registrations and granting agent and landlord licences in line with Part 1 . They may designate one person to act as the licensing authority for the whole of Wales. Alternatively, different persons can be designated to act as licensing authorities for different areas of Wales provided that, when taken together, all of the areas in question cover the whole of Wales. There must not be more than one licensing authority for any one area.
6. Only a person who carries out public functions wholly or mainly in relation to Wales can be designated as a licensing authority. This includes the Welsh Ministers or a public body (which may include a local housing authority) but not Ministers of the UK Government.
7. The Welsh Ministers can make any provision they consider necessary or expedient when making an order designating a person as a licensing authority. Prior to making the order, the Welsh Ministers must consult any person they propose to designate and any other persons they consider appropriate, such as the local housing authority or authorities within the area covered by the proposed licensing authority.

Section 4 – Requirement for a landlord to be registered

8. A landlord who either offers or markets a dwelling for let, or lets one under a domestic tenancy must be registered with the licensing authority for the area in which that dwelling is located. Exceptions to this requirement are set out in section 5. A landlord for whom an exception does not apply, who is not registered and who does not have a reasonable excuse for not being registered commits an offence. Such cases would be heard in magistrates’ courts. If convicted, the landlord is liable to a fine, which would be determined according to the standard scale for fines. In this case, the fine would not exceed level 3.

Section 5 – Exceptions to the requirement for landlord to be registered

9. There are exceptions to the requirement in section 4(1) for a landlord to be registered. The requirement does not apply to a landlord who is a registered social landlord (registered social landlords are subject to separate registration by the Welsh Ministers under Part 1 of the Housing Act 1996) or a fully mutual housing association (whose membership is comprised entirely of tenants or prospective tenants of the properties provided by it). The Welsh Ministers have the power by order to specify other persons to whom the requirement to register in section 4(1) does not apply.
10. The other circumstances in which the requirement to register will not apply are: a) where a landlord has applied to be registered and the application is being considered; b) during the period of 28 days after a landlord has had the interest of the dwelling assigned to him or her, for example where the landlord becomes the freehold owner of the property; c) if a landlord is attempting to recover possession of a property and began steps to recover possession within 28 days of it being assigned to him or her.

Section 6 - Requirement for landlords to be licensed to carry out lettings activities

11. Subsection (2) set out what are “lettings activities” which if being carried out by a landlord require the landlord to hold a licence. They are arranging or conducting viewings of the dwelling with prospective tenants and checking the suitability of such persons, preparing a tenancy agreement (with the exception of solicitors) or preparing an inventory or schedule of the condition of a dwelling. The Welsh Ministers may omit or add to the list of what are considered to be letting activities.
12. A landlord must not do any of the things in subsection (2) unless he or she holds a licence issued by the licensing authority for the area in which the dwelling is located, arranges for an authorised agent to do the activity on his or her behalf, or an exception in section 8 applies. An “authorised agent”, as referred to in subsection (6), is a person who carries out letting and management work and holds a licence to do so for the area in which the dwelling is located, or a local housing authority. For the preparation of a tenancy agreement, it can also be a qualified solicitor, any person acting on behalf of a solicitor or any person specified in an order made by the Welsh Ministers.
13. Save where an exception in section 8 applies, a landlord who undertakes any lettings activities without a licence and without a reasonable excuse for not having a licence commits an offence and on conviction is liable to a fine, not limited by any levels on the standard scale, and the amount of which therefore will be determined by the magistrates' court.

Section 7 – Requirement for landlords to be licensed to carry out property management activities

14. Subsection 2 sets out what are “property management activities” which if being carried out by a landlord require the landlord to hold a licence. They are collecting rent, being the main point of contact for the tenant in relation to matters arising under the tenancy, making arrangements to repair or maintain the property, or to secure access to the property, checking the condition of the property, serving a notice to terminate the tenancy and, when a tenancy ends, checking, or arranging for the checking of, the condition or contents of the dwelling.
15. A landlord must not do any of the things in subsection (2) unless he or she is licensed to do so for the area in which the dwelling is located, or arranges for an authorised agent to do the activity on his or her behalf, or an exception in section 8 applies. An “authorised agent”, as referred to in subsection (7), can be a person who carries out lettings and management work and holds a licence to do so for the area in which the dwelling is located, or it can be a local housing authority. For the termination of a tenancy agreement, it can also be a qualified solicitor, any person acting on behalf of a solicitor or any person specified in an order made by the Welsh Ministers.

16. Save where an exception in section 8 applies, a landlord who undertakes any property management activities without a licence and without a reasonable excuse for not having a licence, commits an offence and on conviction is liable to a fine, not limited by any levels on the standard scale, and the amount of which therefore will be determined by the magistrates' court.

Section 8 – Exceptions to requirements for landlords to be licensed

17. There are exceptions to the requirement in sections 6 and 7 for a landlord to be licensed. The Welsh Ministers also have the power to specify by order other cases to which the requirements in those sections do not apply. Sections 6(1), 7(1) and 7(3) do not apply to registered social landlords or to fully mutual housing associations, for the same reasons as they are exempt under section 5 from needing to be registered. Exceptions also apply where a landlord has applied to be licensed and the application is being considered, and during the period of 28 days after a landlord has had the interest of the dwelling assigned to him or her, for example where the landlord has bought the property, and the sale has completed and transfer registered. An exception also applies if a landlord is attempting to recover possession of a property and began steps to recover possession within 28 days of the property being assigned to him or her.

Section 9 - Requirement for agents to be licensed to carry out lettings work

18. A person (which includes a body corporate, such as a company) who carries out “lettings work” (as defined in section 10) in respect of that dwelling on behalf of a landlord needs to be licensed to do so for the area in which the dwelling is located. An unlicensed person who carries out such work on a landlord’s behalf commits an offence punishable by a fine (unless that person can satisfy a magistrates’ court that they had a reasonable excuse for not being licensed).

Section 10 – Meaning of lettings work

19. **Section 10** specifies what is “lettings work”, for which an agent must be licensed in order to carry out such work. It is work which is done in response to instructions received from landlords seeking to find tenants for their rental property and work carried out in response to instructions received from people seeking to occupy a rental property, subject to certain exceptions set out in the section.
20. Subsections (2) and (3) exclude certain activities from the definition of lettings work provided the person engaged in those activities does not: a) undertake any other activity amounting to “lettings work”, and b) does not undertake any property management work (see section 12).
21. Subsection (4) sets out other activities that are not lettings work. This includes work carried out by people employed by or apprenticed to a landlord under a contract of service with a landlord (such that the employee would not need to be licensed, but the landlord would). The same applies to work carried out by an employee of or apprentice to an agent. It also excludes work carried out by a local housing authority on behalf of a landlord.

Section 11 – Requirement for agents to be licensed to carry out property management work

22. A person who acts on behalf of a landlord and who undertakes property management work without a licence, and without a reasonable excuse for not having a licence, is committing an offence and is liable on conviction to a fine, not limited by any levels on the standard scale, and the amount of which therefore will be determined by the magistrates' court.

Section 12 – Meaning of property management work

23. Subsection (1) sets out that “property management work” is any of the following: collecting the rent; being the main point of contact for the tenant on matters arising from the tenancy; making arrangements for repair or maintenance; arranging with a tenants or occupier of the dwelling to obtain access to it for any purpose; checking the condition of the property, or arranging for it to be checked; and serving notice of termination of the tenancy.
24. A person who does only one of the things listed in subsection (1)(b)-(f), but who does not collect rent and does no lettings work, as set out in subsection (10)(1), is not considered to be doing property management work for the purposes of section 11; and will not need to be licensed to carry out the work in question.
25. Subsection (3) sets out other work that is not property management work. This includes work done by a person under a contract of service with a landlord or work done by a person as part of an apprenticeship with a landlord. . Anything done by a local housing authority does not constitute property management work. The Welsh Ministers can add to the list of exceptions in subsection (3) by order.

Section 13 – Offence of appointing an unlicensed agent

26. A landlord of a dwelling that is marketed or offered for rent under a domestic tenancy, must not appoint, allow, or continue to allow a person to undertake lettings work on the landlord’s behalf in relation to the dwelling if that person does not hold a licence to do so for the area in which the dwelling is located and the landlord knows, or should know, that the person does not hold such a licence.
27. Similarly, a landlord of a dwelling which is let subject to a domestic tenancy must not appoint, allow or continue to allow a person to undertake property management work in respect of that dwelling subject to a domestic tenancy if that person does not hold a licence to do so for the area in which the dwelling is located and the landlord knows, or should know, that the person does not hold such a licence.
28. A landlord who fails to comply with these requirements commits an offence and is, upon conviction, liable to a fine not exceeding level 4 on the standard scale.

Section 14 – Duty to maintain register in relation to rental properties

29. A licensing authority must establish and maintain a register to record certain information about landlords, agents and the rental property let by or on behalf of landlords in their area. The information that must be recorded is set out in paragraph 1 of Schedule 1 for landlords, and paragraph 2 of that Schedule for agents.
30. Some of the information contained on a register maintained by a licensing authority will be available to the public. Paragraphs 3 to 5 of Part 2 of Schedule 1 describe the information which will be publicly available depending on the nature of the search carried out. Information, as set out in that Part, must be provided if a person provides a licensing authority with one of the following: the address of a rental property; the name or registration number or licence number of a landlord; the name or licence number of an agent appointed to carry out lettings work and property management work on behalf of a landlord.

Section 15 – Registration by a licensing authority

31. An application by a landlord to be registered must be made to the licensing authority for the area in which the dwelling is located. Subsection (1) provides that if the application is made in the required form, includes information required by regulations made by the Welsh Ministers or such other information required by the authority, and is accompanied by the required fee, the licensing authority must register the landlord

within a specified period. The registration fee and the period will also be set out in regulations made by the Welsh Ministers.

32. The licensing authority must assign a registration number to the landlord and inform the landlord of the registration and the registration number. A licensing authority can charge a further fee (as set out in regulations made by the Welsh Ministers) for continuing the registration after the fifth anniversary of the date the landlord was registered and, subsequently, after every fifth anniversary a further fee may be charged.

Section 16 – Duty to update information

33. A registered landlord must notify the licensing authority in writing of certain changes in order to ensure that the information set out in a register is kept up to date. These are set out in subsection (1). They are: any change in name in which the landlord is registered; the appointment of a person to carry out lettings or property management work on the landlord's behalf in respect of the property in question; the cessation of the such an appointment; and any assignment of the landlord's interest in a rental property. The Welsh Ministers can also, by regulations, specify other changes in respect of which the duty to notify will apply. A landlord who fails to comply with the duty to notify imposed by this section, and who does not have a reasonable excuse for failing to comply, is liable upon conviction to a fine not exceeding level 1 on the standard scale.
34. There is a time limit of 28 days within which the change(s) must be notified to the licensing authority. The period begins on the first day which the landlord knew, or should have known, of the change.

Section 17 – Revocation of registration

35. A licensing authority is able to revoke a landlord's registration in certain circumstances. They are: a) where the landlord has provided the licensing authority with false or misleading information when applying for registration under section 15 or when complying with the duty to notify the licensing authority of a change in circumstances under section 16; b) where the landlord has failed to notify the licensing authority of a change as required by section 16; and c) failing to pay a fee for remaining on the register (see section 15(4)).
36. Before revoking a registration, a licensing authority must take certain steps. It must notify the landlord of its intention to revoke the registration and the reasons for doing so. It must also allow the landlord 21 days to make representations in relation to the decision from the date that the landlord is notified. The process for giving notifications is set out in section 48.
37. After revoking a registration, the licensing authority must notify the landlord of the revocation and the reasons for doing so and provide information on the right of appeal. A landlord whose registration is revoked may appeal against the decision to a residential property tribunal. An appeal must be brought within 28 days of the landlord being notified of the decision. On appeal, a tribunal may confirm the licensing authority's decision to revoke a registration or direct the authority to register the landlord.
38. The day on which revocation of a landlord's registration takes effect depends on whether or not the landlord makes an appeal against the licensing authority's decision or a subsequent appeal (see subsection (8)).
39. The licensing authority must take certain action in the event of a landlord's registration being revoked. It must notify any person on the register who has been appointed by the landlord to undertake, on the landlord's behalf, lettings or property management work and it must also notify the tenants or occupiers of that landlord's registered rental properties.

Section 18 – Licences that may be granted

40. A licensing authority can only grant certain types of licence under this Part. These are a licence for its area for a landlord to carry out lettings activities (section 6) and property management activities (section 7) or a licence for its area for agents to carry out lettings work and property management work (sections 9 and 11 respectively).

Section 19 – Licence application requirements

41. An application for a licence in accordance with sections 6, 7, 9 or 11 must be made in the form required by the authority; be accompanied by such information as the Welsh Ministers specify by regulations; be accompanied by such other information the authority requires; and be accompanied by the required fee (as specified by regulations made by the Welsh Ministers). Before granting a licence, the authority must take steps to satisfy itself that the applicant is a fit and proper person (see section 20) and that requirements relating to training, as set out in regulations made by the Welsh Ministers under subsection (2)(b), are met or will be met.
42. **Section 19(3)** sets out what regulations under section 19(2)(b) may cover. The list set out in this subsection is not exhaustive and the regulations may cover other things. Regulations may be made authorising a licensing authority to specify requirements in relation to the content of training. Regulations may be made for fees to be charged to cover authorisation of training providers by the licensing authority or approval of training courses. Training may cover, among other things, the statutory obligations of both landlords and tenants, the contractual relationship, the role of an agent, and best practice in lettings work and property management.

Section 20 – Fit and proper person requirement

43. The licensing authority is required to decide whether or not an applicant for a licence is a fit and proper person to be licensed. The Welsh Ministers must issue guidance in relation to this decision. In reaching a decision, a licensing authority must have regard to all matters it considers appropriate, including certain evidence, which is set out in subsections (3) to (5).
44. The evidence falls into a number of categories. First, evidence which shows that the applicant has committed offences involving fraud or other dishonesty, violence, firearms or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003. Second, evidence which shows that the applicant has practiced unlawful discrimination or harassment on the grounds of any protected characteristic under section 4 of the Equality Act 2010, or has victimised a person contrary to that Act. Third, evidence which shows that the applicant has contravened any provision of law relating to housing, landlord or tenant. In addition, failure to comply with any licence condition, including the condition requiring a licence holder to comply with the code of practice issued under section 40, will be relevant evidence for determining whether a person is fit and proper to hold a licence.
45. A licensing authority must also consider whether the actions of a person associated with the applicant are relevant to the question of whether an applicant is a fit and proper person. An associate may be a person connected to the applicant on a personal, work or other basis.

Section 21 - Determination of application

46. A licensing authority must, within a period set out in regulations made by the Welsh Ministers, grant a licence if it is satisfied that the applicant meets the requirements specified in section 19. After granting the licence, the authority must assign a licence number and issue a licence which shows the licence number. It must also record the date the licence was granted and give the licence to the licence holder.

47. If an application for a licence is refused, the licensing authority must notify the applicant, give the reasons why, and provide information on the applicant's right to appeal the decision.

Section 22 - Licence conditions

48. Each licence granted will include a condition requiring the licence holder to comply with any code of practice issued by the Welsh Ministers (see section 40) and any other further conditions a licensing authority considers appropriate. Breach of a licence condition may lead to a person's licence being revoked (see section 25).

Section 23 – Duty to update information

49. A licence holder must notify the licensing authority in writing of any change in the name of the licence holder and other changes that are set out in regulations made by the Welsh Ministers. Notification should be made within 28 days of the first day on which the licence holder knew, or should have known, of the change(s).
50. A licence holder who fails to comply with the requirements of this section and who does not have a reasonable excuse for failing to comply, is liable upon conviction to a fine not exceeding level 4 on the standard scale.

Section 24 – Amendment of licence

51. A licensing authority may amend a licence granted by it. An amendment may be made to impose new conditions or remove or change the existing conditions attached to a licence. The only exception is the requirement to comply with the code of practice, which cannot be amended.
52. Before deciding to amend a licence, a licensing authority must do a number of things. It must notify the licence holder of its intention to make amendments and the reasons for doing so. It must also allow the licence holder time to make any representations. A period of 21 days must be allowed, beginning with the date the licence holder was notified. But the requirement to wait 21 days before making a decision to amend a licence does not apply if the licence holder consents to the amendment or if the authority considers that there are exceptional circumstances that warrant the changes being made without delay.
53. After amending a licence, the licensing authority must notify the licence holder of the amendment(s) and the reasons for the amendment(s). If a licence holder hasn't consented to the change, the authority must provide information on the licence holder's right to appeal to a residential property tribunal against the authority's decision. The date the amendment or amendments will take effect is determined in accordance with subsection (6).

Section 25 – Revocation of licence

54. A licence can be revoked by a licensing authority in certain circumstances. It may do this if a condition of the licence has been breached, if the authority is no longer satisfied that the licence holder is a fit and proper person, if the licence holder has, without a reasonable excuse, failed to comply with the duty to update information under section 23, or if both the licence holder and licensing authority have agreed that the licence should be revoked.
55. Before revoking a licence, the licensing authority must notify the licence holder of its intention to do so and the reasons for revocation. It must allow the licence holder time to make representations. The period allowed for the licence holder to make representations is 21 days beginning the day the licence holder was notified of the authority's intention to revoke the licence. But the duty to allow a licence holder the opportunity to make representations does not apply where revocation has been agreed to by the licence

holder or if the authority considers that there are exceptional circumstances which warrant a licence being revoked without delay.

56. After revoking a licence, the licensing authority must notify the licence holder of the revocation and the reasons for doing so. If a licence holder hasn't consented to the revocation, the authority must provide information on the licence holder's rights of appeal against the decision. The appeal period is the period of 28 days which begins with the date the licence holder was notified of the authority's decision, as set out in section 27(3)(a). The revocation takes effect in accordance with the date determined by subsection (5).
57. When a landlord's licence is revoked, the licensing authority must notify the tenants or occupiers of that landlord's registered rental properties. When a person's licence to undertake lettings work or property management on behalf of a landlord is revoked, the licensing authority must notify the landlord that appointed the person. Should a landlord's licence be revoked, the landlord would need to arrange for an authorised agent to carry out lettings work and property management work on the landlord's behalf.

Section 26 – Expiry and renewal of licence

58. A licence expires after a period of five years beginning with the date on which it was granted unless the licence holder applies for it to be renewed. Generally, sections 19 to 21 apply to applications to renew licences as they apply to applications for a first licence. The only difference is that on renewal, the licensing authority will not have to assign a new licence number to the licence holder (the existing number will be re-used).
59. Applying these sections to renewal applications means that: a) an application will have to be made in accordance with the requirements specified by section 19(1) (be accompanied by a fee and information etc.); b) before granting a renewed licence, the relevant licensing authority will need to be satisfied, in accordance with section 20, that the applicant for renewal is a fit and proper person and c) satisfied that any requirements specified by regulations in respect of training are met.
60. If an application for renewal is refused, the licence expires on a date determined in accordance with subsection (6). The applicant has 28 days beginning with the date the licence holder was notified of the decision to refuse the renewal application within which to bring an appeal.
61. If a licence holder dies, the licence expires automatically. Any renewal application made by the licence holder beforehand is treated as being withdrawn. The same applies in the case where a body corporate (a company, for example) is dissolved.

Section 27 – Licensing appeals

62. Applicants for a licence (including applicants for renewal of a licence) or holders of a licence can appeal the following decisions of a licensing authority: a decision to grant a licence subject to a condition (other than the requirement to comply with the code of practice issued by the Welsh Ministers); a refusal to grant a licence; amendment of a licence; or revocation of a licence. Appeals are made to a residential property tribunal.
63. An appeal must be made before the end of the 28 day period beginning with the date the applicant was notified of the relevant decision. The tribunal may allow an appeal after the end of this appeal period if it is satisfied there is good reason for the failure to appeal within the time limit. The appeal may be determined following consideration of matters of which the licensing authority was not aware.
64. After hearing an appeal, the tribunal may confirm the decision of the licensing authority. Alternatively, it may: a) where an appeal was made against a licence condition, direct the authority to grant a licence on the terms the tribunal considers appropriate; b) where an appeal was made against a decision to refuse an application for a licence or renewal of a licence, direct the authority to grant or renew the licence on the terms the tribunal

*These notes refer to the Housing (Wales) Act 2014 (c.7)
which received Royal Assent on 17 September 2014*

considers appropriate; c) where an appeal was made against a decision to amend a licence, direct the authority not to amend the licence or, alternatively, to amend the licence on the terms the tribunal considers appropriate; and d) where an appeal was made against a decision to revoke a licence, quash that decision.

65. If a licensing authority is directed by a tribunal to grant a licence, the licence is treated as if it had been granted under section 21(1).

Section 28 – Prosecution by a licensing authority or a local housing authority

66. Subsection (1)(a) lists the offences which may be prosecuted by a licensing authority which arise in relation to a dwelling located in its area. Criminal proceedings may alternatively be brought by a local housing authority, where the offence arises in respect of a dwelling in its area, where that authority is not the licensing authority for the area, the offences in question are ones listed in subsection (2). In such cases, the local housing authority must have obtained the consent of the licensing authority to bring proceedings.
67. This section does not affect any other power of the person designated under section 3(1) to bring legal proceedings. It also does not affect section 222 of the Local Government Act 1972, which relates to the power of local authorities to prosecute or to defend legal proceedings.

Section 29 – Fixed penalty notices

68. This section allows persons acting on behalf of licensing authorities, by notice, to offer persons suspected of committing an offence under this Part the opportunity to discharge any liability to conviction for the offence through payment of a fixed penalty. The offer can only be made by notice and the person making the offer must be authorised in writing by the licensing authority to do so. Fixed penalty notices may not be offered to persons suspected of having committed offences under section 13(3) or section 38(4).
69. Where a person is given a notice in respect of an offence, no proceedings for a conviction can be issued before a period of 21 days following the date of notice has expired. If the person pays the fixed penalty before the end of the period, that person may not be convicted of the offence. The process for giving notice is set out in section 48.
70. A notice must set out a number of matters. It must provide reasonable information on the circumstances alleged to constitute the offence. It must also state the period during which proceedings will not be taken, the amount of the fixed penalty and the person to whom and address at which, the fixed penalty may be paid.
71. The fixed penalty under this section is £150 unless the offence is one that attracts a fine that is not limited to the standard scale for fines, in which case it is £250. The Welsh Ministers have the power to vary these amounts by order.
72. Payment can be made by pre-paying and posting a letter containing the amount of the penalty in cash or otherwise, or by another method, which will need to be acceptable to the licensing authority. If posted, the payment is treated as having been made when the letter would ordinarily have been delivered in the post. Receipts from fixed penalty notices can only be used by a licensing authority for its functions relating to the enforcement of Part 1 of the Act.
73. The “licensing authority” for this section is defined in subsection (10)(a) to (d). A local housing authority that is not the licensing authority for its area can exercise the functions under this section in its area in relation to an offence under section 10(a); but the local housing authority needs the prior consent of the relevant licensing authority to do so.

Section 30 – Rent stopping orders

74. The licensing authority or the local housing authority for the area in which a dwelling is located, can apply to a residential property tribunal for a rent stopping order. A local housing authority that is not the licensing authority must have the consent of the licensing authority before making an application.
75. The effects of a rent stopping order granted by a tribunal are described in subsection (3) (a) to (e). A rent stopping order has the effect of stopping those rent/service charge payments (or parts of payments) owed by a tenant to a landlord which are payable in respect of a specified period. This period begins with a date specified in the rent stopping order and ends with a later date determined by the tribunal when the rent stopping order is revoked (see section 31). Amounts of rent/service charge paid by a tenant to a landlord which relate to that period must be repaid by the landlord. If repayment does not occur, the money is recoverable as a debt owed to the tenant by the landlord.
76. A tribunal can only make a rent stopping order if it is satisfied that an offence is being committed under section 7(5) or 13(3) (whether or not the person has been convicted or charged for the offence) and that certain steps have been taken by the authority making the application. The authority must give the landlord and tenant a notice of intended proceedings, which explains that the authority is proposing to apply for an order. It must also set out the reasons for seeking the order, the effect of the order, and it must explain how such an order may be revoked. The notice must allow the landlord to make representations to the authority within a period of not less than 28 days.
77. Additionally, and before granting an order, the tribunal must be satisfied that the period for making representations has expired and that the authority has considered any representations made to it. The date from which payments are stopped cannot be a date before the date on which the order is made.

Section 31 – Revocation of rent stopping orders

78. A residential property tribunal can revoke a rent stopping order. It can only do this if an application is made by the licensing authority for the area in which the dwelling is located, the local housing authority for the area in which the dwelling is located, or the landlord of the dwelling. It must also be satisfied that an offence under section 7(5), subject to the comments below, or section 13(3) is no longer being committed in respect of the dwelling. Insofar as relating to an offence under section 7(5), a rent stopping order can only apply to a contravention of section 7(1), which relates to doing certain things where a dwelling is subject to a domestic tenancy, and not a contravention of section 7(3), which relates to dwellings no longer subject to a tenancy. This is because rent stopping orders can only be issued where a dwelling is subject to a tenancy and, therefore, rent is being paid.
79. Where a tribunal revokes a rent stopping order, the effect is to restore the landlord's ability to receive rent for the property from a date determined by the tribunal.
80. If a rent stopping order is revoked, the authority that made the application must notify the tenant or occupier of the dwelling and the landlord. The latter does not apply if it was the landlord that made the application in the first place; in such a case, the licensing authority for the area in which the dwelling is located is required to notify the tenants or occupiers of the dwelling that the order is revoked.

Section 32 – Rent repayment orders

81. This section should be read in conjunction with section 33.
82. The licensing authority or the local housing authority for the area in which a dwelling is located, or a tenant of that dwelling can apply to a residential property tribunal for a rent repayment order. If it is not the licensing authority for the area in which the dwelling

is located, the local housing authority must have the consent of the licensing authority before applying.

83. A rent repayment order is made in respect of a dwelling. It requires the appropriate person to pay to the applicant such an amount as detailed in the order. Prior to making an order upon an application of a licensing authority or local housing authority, the tribunal must be satisfied of certain matters, these are different from the matters to which a tribunal must be satisfied in the event of an application being made by a tenant.
84. In relation to an application made by a licensing authority or local authority, the tribunal must be satisfied that an offence under 7(5) (requirement for landlords to be licensed to carry out property management activities) or 13(3) (offence of appointing an unlicensed agent) has been committed by the landlord of the dwelling in the 12 months prior to the date of the required notice of intended proceedings under this part, (whether or not the person has been convicted or charged for the offence). Applications from the licensing authority or the local housing authority may be made only in cases where a relevant award or awards of universal credit or housing benefit has been paid to any person in relation to that dwelling, that being the amount that the tribunal can direct to be repaid to the applicant authority.
85. Where an application is made by a tenant, a tribunal in granting an order, must be satisfied that a person has been convicted of a relevant offence; it may also make grant an order where it has already made an order as a result of an application by a licensing authority or local housing authority covering a relevant award or awards of universal credit or housing benefit paid in relation to the same tenancy.
86. The meaning of key terms used in this section are defined in subsection (9).

Section 33 – Rent repayment orders: further provision

87. This section sets out circumstances in which a rent repayment order must be made by a tribunal and the amount that the order must cover, this is when an application is made by a licensing authority or local housing authority. In addition the section sets out circumstances in which a tribunal may order a lesser amount than the amount of benefit received by the landlord where it would otherwise be unreasonable to order the full amount. The section also sets out other matters that should be taken into account by a tribunal when determining an amount to be set out in a rent repayment order.
88. All amounts determined by a tribunal and required to be repaid by an order can be recovered as a debt due to the applicant from the appropriate person.

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

89. The Welsh Ministers may make regulations that supplement the provisions in sections 32 and 33. Regulations may, for example, include provision to ensure that persons are not unfairly prejudiced by rent repayment orders or how amounts received by authorities from rent repayment orders are to be dealt with.

Section 35 – Offences by bodies corporate

90. This section deals with circumstances where offences are committed by bodies corporate, for example a company. If an offence is committed under this Part of the Act and it is proved to have been committed with consent, collusion or negligence on the part of a director, manager or company secretary, or a person purporting to act in such a capacity, that person as well as the body is treated as having committed the offence and both are liable to have proceedings brought against them. The reference to director, manager or company secretary covers any similar officer. Where the affairs of a body are managed by its members, the reference covers any officer or a member of the body.

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

91. A licensing authority can, for the purpose of exercising its functions under this Part, request certain information from a local housing authority. The information which can be requested is information obtained through the exercise by the local housing authority of its functions as local housing authority or information obtained in the exercise of its functions under Part 1 of the Local Government Finance Act 1992 (which relates to the administration of council tax). In addition, it includes information on housing benefit, which is administered by local housing authorities. The local housing authority to which such a request is made must comply with it unless doing so would be incompatible with its own duties or otherwise have an adverse effect on the exercise of its functions.
92. Similar provision applies allowing a local housing authority to request information from a licensing authority obtained in the exercise of its functions in this part, where required by the local housing authority for any purpose connected with its function under Part 1.

Section 37 – Power to require documents to be produced or information given

93. A person who has been authorised, in writing, by a licensing authority has the power to require a person to produce documents or to provide information which is reasonably required by the authority in connection with the exercise of its functions under this Part of the Act or for the purpose of enabling it to investigate whether an offence has been committed under this Part. Subsection (7) provides that a reference to a document includes information which is not in legible form (for example because it is stored on a computer server).
94. A relevant person must be given notice about the request. A “relevant person” means a person who applies for a licence, a person who has an estate or interest in a rental property, a person proposing to be involved in the letting or property management of a rental property, or a person who occupies a rental property.
95. A person can be asked to produce any documents specified or described in the notice or which falls within a category of document specified or described and which are in the person’s custody or control. They must produce them at a time, place and to a person specified in the notice, and in the form required. Documents that have legal professional privilege; for example, documents containing advice from legal professionals are not covered by the requirement.

Section 38 – Enforcement of powers to obtain information

96. A failure to do anything required by a notice issued under section 37 is an offence. If persons do not have a reasonable excuse for failing to comply, they are liable upon conviction to a fine not exceeding level 4 on the standard scale.
97. A person who intentionally alters, suppresses or destroys any document that that person has been required to produce by a notice will commit an offence. Upon conviction of such an offence, the person is liable to a fine not limited by any levels on the standard scale, and the amount of which therefore will be determined by the magistrates' court.

Section 39 – False or misleading information

98. A person who supplies any information to a licensing authority in connection with any of its functions under this Part that is false or misleading and who knows that it is false or misleading or is reckless as to whether it is false or misleading, commits an offence. An offence will also arise where a person supplies any information to another person, knows that the information is false or misleading or is reckless as to whether it is false or misleading, and knows that the information will be used for the purpose of supplying information to a licensing authority in connection with the exercise of its

functions under this Part of the Act. Persons convicted of offences under this section are liable upon conviction to a fine not limited by any levels on the standard scale, and the amount of which therefore will be determined by the magistrates' court.

Section 40 – Code of practice

99. The Welsh Ministers must issue a code of practice which sets standards relating to letting and managing rental properties. The code may include standards relating to training. Compliance with the code is one of the conditions on which a licence is held (see section 22).
100. Before issuing a code, the Welsh Ministers must take reasonable steps to consult with persons involved in letting and managing rental properties and persons occupying such properties, or with persons who the Welsh Ministers consider to represent the views of those persons. A copy of the proposed code must be laid before the National Assembly for Wales and cannot be issued until it has been approved by the Assembly. The code can be amended but the same process applies. A code may be withdrawn in an amended code or by direction given by the Welsh Ministers.

Section 41 - Guidance

101. When exercising its functions under this Part, a licensing authority must have regard to any guidance issued by the Welsh Ministers, as must a local housing authority exercising functions under this Part other than as licensing authority. The guidance must be published. Before giving, revising or revoking guidance under this Part the Welsh Ministers must consult such persons as they consider appropriate.

Section 42 – Directions

102. The Welsh Ministers may give directions to a licensing authority or to a local housing authority exercising functions under this Part other than as licensing authority; and the relevant authority must comply with those directions in exercising its functions. The directions must be published and may be general in nature or specific.

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

103. Any contravention of this Part of the Act does not affect the validity of a tenancy agreement or the enforceability of any obligations under such an agreement. In such circumstances, a tenant will still be entitled to occupy the premises under a valid tenancy agreement. This does not, however, prevent rent being stopped or repaid in accordance with rent stopping or rent repayment orders.

Section 44 - Restriction on terminating tenancies

104. A notice under section 21 of the Housing Act 1988 to terminate an assured shorthold tenancy cannot be issued if the landlord is not registered or if the landlord is carrying out lettings or property management activities without a licence or has not appointed a licensed agent to carry out such work on his or her behalf. This restriction does not apply to the period of 28 days beginning on the day on which the landlord is assigned an interest in the dwelling.

Section 45 – Landlords who are trustees

105. If a landlord is made up of trustees, the trustees may register as a landlord under a name which is a collective description of the trustees as the trustees of the relevant trust instead of under their individual names.

Section 46 – Regulations about fees

106. The Welsh Ministers may make regulations that set out the fees payable for registration (section 14) and licensing (section 18).

Section 47 – Information about applications

107. A licensing authority must publish information about the form and content of registration and licensing applications and the information which is to be provided when making such applications.

Section 48 – Giving notices etc. under this Part

108. Where a person is required or authorised by a provision of this Part to notify another person of something or to give a document to that person, including a notice or a copy of a document, it may be given in a number of ways. It may be delivered to the person, delivered by post to the person's proper address, or left at the person's proper address. It may also be sent electronically provided the person to whom it is to be sent has indicated a willingness to receive a notice or documents by such means and has an address suitable for that purpose. Examples include an email address or a fax number. For a body corporate, such as a company, the document or notification may be given to the secretary or clerk of that body at its registered or principal office. For post, the "proper address" of a person is the person's last known address unless the person is a body corporate; in which case, its "proper address" is the address of its registered or principal office.

Section 49 – Interpretation of this Part and index of defined terms

109. This section indexes the defined terms used within Part 1 and includes other provision necessary for the interpretation of this Part.