

RENTING HOMES (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Miscellaneous

Chapter 1 – Further Provisions Relating to Occupation Contracts

Section 233 – Effect of reaching 18

494. **Section 7(6)** provides that a person under the age of 18 cannot be a contract-holder under an occupation contract, and paragraph 7(2) of Schedule 2 provides that where all the tenants or licensees living in a dwelling are under 18, there is no occupation contract. This section concerns what happens when either-
- a. a person below the age of 18 who is the only tenant or licensee in relation to a dwelling reaches the age of 18, or
 - b. where there is a tenancy or licence with more than one tenant or licensee and all the tenants are under 18, the eldest tenant or licensee reaches the age of 18.
495. In either of those circumstances it is necessary to determine whether the tenancy or licence is an occupation contract and, if so, whether it is a standard or secure contract and who the contract-holder(s) will be. This section provides that those questions (which will be answered in accordance with the rest of the Act, and with regard to the particular circumstances that arise) are to be answered on the basis that the tenancy or licence was made on the day the person turned 18.

Section 234 – Consultation arrangements and Section 235 - Statement of consultation arrangements

496. Under section 234, community landlords must have arrangements in place for informing contract-holders about certain ‘relevant proposals on housing management matters’, and giving them an opportunity to comment. What constitutes such a proposal is set out in subsection (4); and subsection (5) means that the requirement to consult does not relate to proposed changes to rent or consideration, or to facilities or service charges.
497. These requirements also do not apply where the requirement to consult under paragraph 12(7) of Schedule 2, which concerns redevelopment schemes and the estate management grounds, applies.
498. Under section 235, each community landlord must publish a statement on the arrangements it has made in order to meet the requirements in section 234(1), together with a summary, both of which must be available on request to contract-holders and to members of the public. Registered social landlords and private registered providers of social housing must send copies of the statement to the Welsh Ministers and the local housing authority for the area in which the dwellings in question are situated.

Section 236 – Form of notices, statements and other documents and Section 237 - Giving notices, statements and other documents

499. Any notices or other documents given or made under the Act must be in writing, and the Welsh Ministers can make provision in regulations about the form of notices and documents. Notices and documents may be in electronic form, as long as they contain the certified electronic signatures of any required parties (or an agent authorised by the party), but this is subject to the conditions in section 237(4).
500. Where a notice or document is required or authorised to be given to a person under the Act, it is considered as given if it is delivered to the person or posted to, or left at, that person's last known address or place of business or any other place that the person has specified as a place where they may be given notices or documents. In the case of a contract-holder, the dwelling that the contract-holder occupies is also an appropriate address.
501. A notice or document may also be given electronically if the recipient has agreed to receive it in this manner, it is legible, and the text it contains can be used for subsequent reference.

Chapter 2 – Trespassers: Implied Tenancies and Licences

Section 238 – Implied tenancies and licences

502. Where a landlord accepts payments from a person knowing they are a trespasser, or where they ought to have known that the person is a trespasser, and does not take any action to evict that person, or otherwise show an intention to treat the person as a trespasser within two months of accepting the first payment, a periodic contract is created between the landlord and the person. That contract is a tenancy or licence. This entitles the trespasser to occupy the dwelling as his or her home from the day after that two month period ends. The amount of rent and the rental periods of the contract are to be determined based on the amount and frequency of payments made by the trespasser, and any other relevant circumstances.

Chapter 3 – Tenancies and Licences Existing before Commencement of This Chapter

Sections 239 to 241 - Pre-existing licences and tenancies

503. **Section 239** provides that, on the day it is brought into force ('the appointed day'), no tenancy or licence can be:
- a restricted contract
 - a protected shorthold tenancy;
 - a secure tenancy;
 - an assured tenancy (of any kind);
 - an introductory tenancy; or
 - a demoted tenancy.
504. No existing tenancies or licences are ended by this section. Rather, section 240 applies for the purposes of determining whether the tenancy or licence will convert into an occupation contract, and if so, what kind. The nature and status of pre-existing tenancies and licences which do not convert into an occupation contract will not be affected.
505. The existing terms of converted contracts continue to have effect providing they do not conflict with the fundamental provisions of the Act which become incorporated as terms of the contract. Conversely, supplementary provisions which apply to the occupation

*These notes refer to the Renting Homes (Wales) Act 2016 (c.1)
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contract are incorporated into the contract unless they conflict with the existing terms of the contract. If a contract has been agreed between a landlord and tenant or licensee before the day that the relevant provisions of the Act come into force, but the occupation date falls after that date, the Act applies to the tenancy or licence as if it was made on the day the relevant provisions come into force.

Schedule 12 - Conversion of tenancies and licences existing before commencement of Chapter 3 of Part 10

506. **Schedule 12** sets out further provision about tenancies and licences which convert into occupation contracts. It makes provision which applies only to such contracts, and also modifies the operation of certain provisions in the Act in terms of how they operate in relation to such contracts.

Section 242 - Interpretation of Chapter

507. This section sets out the definitions of terms used in the Chapter.