



Renting Homes (Wales) Act 2016

2016 anaw 1

PART 2

OCCUPATION CONTRACTS AND LANDLORDS

PROSPECTIVE

CHAPTER 1

OCCUPATION CONTRACTS

7 Tenancies and licences that are occupation contracts

- (1) A tenancy or licence is an occupation contract if—
 - (a) it is within subsection (2) or (3), and
 - (b) rent or other consideration is payable under it.
- (2) A tenancy or licence is within this subsection if—
 - (a) it is made between a landlord and an individual, and
 - (b) it confers on the individual the right to occupy a dwelling as a home.
- (3) A tenancy or licence is within this subsection if—
 - (a) it is made between a landlord and two or more persons at least one of whom is an individual, and
 - (b) it confers on the individual (or, if there is more than one individual, on one or more of them) the right to occupy a dwelling as a home.
- (4) But there are exceptions to subsection (1) set out in Schedule 2, which provides—
 - (a) in Part 1, that certain tenancies and licences not within subsection (2) or (3) can be occupation contracts if notice is given,
 - (b) in Part 2, that certain tenancies and licences that are within subsection (2) or (3) are not occupation contracts unless notice is given,

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- (c) in Part 3, that certain tenancies and licences are never occupation contracts,
 - (d) in Parts 4 and 5, that certain tenancies and licences can be occupation contracts, but special rules apply in relation to them, and
 - (e) in Part 6, that the Welsh Ministers may amend that Schedule.
- (5) Each person with whom a landlord makes an occupation contract is a contract-holder under the occupation contract.
- (6) But an individual cannot be a contract-holder under an occupation contract if he or she has not reached the age of 18.

8 Secure contracts and standard contracts

- (1) An occupation contract is either—
- (a) a secure contract, or
 - (b) a standard contract.
- (2) A secure contract is a periodic contract.
- (3) A standard contract is either a fixed term contract or a periodic contract.

PROSPECTIVE

CHAPTER 2

NATURE OF CONTRACTS WHICH CAN BE MADE ETC. BY COMMUNITY LANDLORDS AND PRIVATE LANDLORDS

Definitions

9 Community landlords

- (1) In this Act “community landlord” means a landlord which is—
- (a) an authority mentioned in subsection (2),
 - (b) a registered social landlord, other than a fully mutual housing association or a co-operative housing association, or
 - (c) a private registered provider of social housing (see section 80(3) of the Housing and Regeneration Act 2008 (c. 17)).
- (2) The authorities are—
- (a) a local authority;
 - (b) a new town corporation;
 - (c) a housing action trust;
 - (d) an urban development corporation;
 - (e) a housing co-operative to which subsection (3) applies.
- (3) This subsection applies to a housing co-operative (within the meaning of section 27B of the Housing Act 1985 (c. 68)) to the extent that any dwelling subject to an

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occupation contract is comprised in a housing co-operative agreement within the meaning of that section.

- (4) In this Act “registered social landlord” means a person registered in the register maintained under section 1 of the Housing Act 1996 (c. 52).
- (5) In this Act “fully mutual housing association” and “co-operative housing association” have the same meaning as in the Housing Associations Act 1985 (c. 69) (see section 1(2) of that Act).
- (6) The Welsh Ministers may by regulations amend this section for the purpose of—
 - (a) providing that a person which is for the time being a community landlord is not a community landlord;
 - (b) providing that a person which is not a community landlord is a community landlord;
 - (c) changing a description of a person which is for the time being a community landlord.

10 Private landlords

In this Act “private landlord” means a landlord that is not a community landlord.

Contracts made with or adopted by community landlords

11 Contract made with community landlord

- (1) An occupation contract made with a community landlord is a secure contract unless one of the following exceptions applies.
- (2) The first exception applies if—
 - (a) the occupation contract is within Schedule 3 (occupation contracts made with community landlords which may be standard contracts),
 - (b) before or at the time the contract is made, the landlord gives the contract-holder a notice under section 13 (notice of standard contract), and
 - (c) no other exception applies.
- (3) The second exception applies if the contract is made as a result of an order under section 116 (prohibited conduct standard contract).
- (4) The third exception applies if the contract arises under section 184(2) or is within section 184(6) (contracts at end of fixed term).
- (5) The fourth exception applies if the contract is a tenancy or licence arising under section 238 (implied tenancies and licences).
- (6) Section 16 makes further provision about contracts to which the first exception applies because the contract is within paragraph 3 of Schedule 3 (introductory standard contracts).

12 Contract adopted by community landlord

- (1) If a community landlord becomes the landlord under an existing secure contract, the contract continues as a secure contract.

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- (2) If a community landlord becomes the landlord under an existing standard contract because of a transfer under section 62 or 66 (transfer of rights and obligations of landlord under a sub-occupation contract), the contract continues as a standard contract.
- (3) If a community landlord becomes the landlord under an existing standard contract for any other reason, the existing contract—
 - (a) ends when the community landlord becomes the landlord, and
 - (b) is replaced with a secure contract that has an occupation date falling immediately after the existing contract ends,
 unless one of the following exceptions applies.
- (4) The first exception applies if—
 - (a) the contract is within Schedule 3 (occupation contracts adopted by community landlords which may be standard contracts),
 - (b) before or at the time the community landlord becomes the landlord, the community landlord gives the contract-holder a notice under section 13, and
 - (c) no other exception applies.
- (5) The second exception applies if the contract is made as a result of an order under section 116 (prohibited conduct standard contract).
- (6) The third exception applies if the contract arises under section 184(2) or is within section 184(6) (contracts at end of fixed term).
- (7) The fourth exception applies if the contract is a tenancy or licence arising under section 238 (implied tenancies and licences).
- (8) The fifth exception applies if—
 - (a) the contract is a fixed term standard contract for which a premium was paid, and
 - (b) before the community landlord becomes the landlord, the contract-holder decides that the contract should remain a fixed term standard contract (section 15 makes further provision about such decisions).
- (9) Section 16 makes further provision about contracts to which the first exception applies because the contract is within paragraph 3 of Schedule 3 (introductory standard contracts).

13 Notice of standard contract

- (1) A notice under this section is a notice—
 - (a) specifying the paragraph of Schedule 3, and the description of occupation contract set out in that paragraph, on which the landlord relies, and
 - (b) stating that the contract is a standard contract.
- (2) The notice must also inform the contract-holder of his or her right to apply for a review under section 14, and of the time by which the application must be made.

14 Review of notice

- (1) This section applies where a community landlord gives a notice under section 13.

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- (2) The contract-holder may apply to the county court for a review of the landlord's decision to give the notice.
- (3) The application must be made before the end of the period of 14 days starting with the day on which the landlord gives the contract-holder the notice.
- (4) The county court may give permission for an application to be made after the end of the period allowed by subsection (3), but only if it is satisfied—
 - (a) where permission is sought before the end of that period, that there is a good reason for the contract-holder to be unable to make the application in time, or
 - (b) where permission is sought after that time, that there is a good reason for the contract-holder's failure to make the application in time and for any delay in applying for permission.
- (5) The county court may confirm or quash the decision to give the notice.
- (6) In considering whether to confirm or quash the decision, the county court must apply the principles applied by the High Court on an application for judicial review.
- (7) If the county court quashes the decision, it may make any order the High Court could make when making a quashing order on an application for judicial review.
- (8) If the county court quashes the decision and the landlord gives the contract-holder a further notice under section 13 before the end of the post-review period, the notice has effect (other than for the purposes of subsection (3)) as if given—
 - (a) in a case within section 11, at the time the contract was made, or
 - (b) in a case within section 12, at the time the community landlord became the landlord.
- (9) The post-review period is the period of 14 days beginning with the day on which the county court quashes the decision.

15 Notice of right to decide to remain on a fixed term standard contract

- (1) At least one month before a community landlord becomes the landlord under a fixed term standard contract for which a premium was paid, the community landlord must give the contract-holder a notice under this section.
- (2) The notice must—
 - (a) inform the contract-holder of his or her right under section 12(8)(b) to decide that the contract should remain a fixed term standard contract, and of the time by which the decision must be made, and
 - (b) explain how section 12 will apply to the contract if the contract-holder does not make such a decision.

16 Introductory standard contracts

- (1) An occupation contract which is a standard contract because the first exception in section 11 or 12 applies and because it is within paragraph 3 of Schedule 3 (new occupation contract made with community landlord)—
 - (a) is a periodic standard contract during the introductory period, and
 - (b) if it subsists immediately before the end of that period—
 - (i) ends at the end of that period, and

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(ii) is replaced with a secure contract that has an occupation date falling immediately after that period ends.

- (2) But subsection (1)(b) does not apply if an introductory period ends because of paragraph 1(6) of Schedule 4 (private landlord becomes landlord under the contract).
- (3) Schedule 4 makes provision about introductory periods and about the terms of a secure contract which arises at the end of an introductory period.
- (4) In this Act “introductory standard contract” means a contract—
 - (a) which is within subsection (1), and
 - (b) in relation to which the introductory period has not ended.

Contracts made with or adopted by private landlords

17 Contract made with or adopted by private landlord

- (1) An occupation contract made with a private landlord is a standard contract unless, before or at the time the contract is made, the landlord gives the contract-holder a notice stating that the contract is a secure contract.
- (2) If a private landlord becomes the landlord under an existing secure contract, the contract continues as a secure contract.
- (3) If a private landlord becomes the landlord under an existing standard contract, the contract continues as a standard contract.

PROSPECTIVE

CHAPTER 3

FUNDAMENTAL PROVISIONS OF OCCUPATION CONTRACTS

18 Fundamental provisions

- (1) Fundamental provisions are provisions of this Act (and provisions which are fundamental provisions by virtue of section 22(1)(a)) that are incorporated as terms of occupation contracts or particular kinds or descriptions of occupation contract (subject to sections 20(1) and (2) and 21).
- (2) Each provision of this Act that is a fundamental provision identifies itself as such, and specifies the occupation contracts into which it is incorporated as a fundamental term.
- (3) Nothing in this Act is to be read as enabling a landlord or contract-holder to do anything which would have the effect that a fundamental provision which is applicable to the occupation contract is not, or is not to be treated as, a fundamental provision which is applicable to the contract (but this does not prevent an agreement to modify or not to incorporate a fundamental provision, or a variation of a fundamental term, which is in accordance with this Act).

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19 Fundamental terms and fundamental provisions: definitions

- (1) This section applies for the purposes of interpreting this Act.
- (2) “Fundamental provision” has the meaning given in section 18.
- (3) A reference in this Act to a section or other provision which is a fundamental provision has effect, in relation to a contract in which the fundamental provision is incorporated (with or without modifications), as a reference to the fundamental term of the contract which incorporates the fundamental provision.
- (4) “Fundamental term”, in relation to an occupation contract, means a term of the contract which incorporates a fundamental provision (with or without modifications).

20 Incorporation and modification of fundamental provisions

- (1) A fundamental provision is not incorporated as a term of an occupation contract if—
 - (a) the landlord and the contract-holder agree that it should not be incorporated, and
 - (b) in the contract-holder's opinion, the effect of its not being incorporated is that the position of the contract-holder is improved.
- (2) A fundamental provision is incorporated as a term of an occupation contract with modifications if—
 - (a) the landlord and the contract-holder agree that it should be incorporated with those modifications, and
 - (b) in the contract-holder's opinion, the effect of its being incorporated with those modifications is that the position of the contract-holder is improved.
- (3) Subsections (1) and (2) do not apply to the following fundamental provisions—
 - (a) section 45 (requirement to use deposit scheme),
 - (b) section 52 (joint contract-holder ceasing to be a party to the occupation contract),
 - (c) section 55 (anti-social behaviour and other prohibited conduct),
 - (d) sections 103(1)(b) and (2) and 108 (variation of secure contracts),
 - (e) sections 122(1)(b) and (2) and 127 (variation of periodic standard contracts),
 - (f) section 134(1)(b) and (2) and 135 (variation of fixed term standard contracts),
 - (g) section 148 (permissible termination),
 - (h) section 149 (possession claims),
 - (i) section 155 (death of sole contract-holder),
 - (j) section 158 (securing contract by use of false statement),
 - (k) section 175 (restriction on giving landlord's notice under a periodic standard contract during first four months of occupation),
 - (l) section 177 (breach of deposit requirements: periodic standard contracts),
 - (m) section 186(2) and (4) (restriction on ending fixed term standard contract during first six months of occupation),
 - (n) section 196 (restriction on use of landlord's break clause in a fixed term standard contract during first four months of occupation),
 - (o) section 198 (breach of deposit requirements: fixed term standard contracts with landlord's break clause), and

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(p) paragraph 7 of Schedule 4 (variation of secure contract addressed in written statement of introductory standard contract).

(4) Subsections (1) and (2) are subject to section 34 (landlord's failure to provide written statement of contract) and section 36 (incomplete statement of contract).

21 Effect of non-incorporation and modification of fundamental provisions

(1) Subsections (2) and (3) apply where—

- (a) a fundamental provision is not incorporated as a term of an occupation contract because of an agreement under section 20(1), or
- (b) a fundamental provision is incorporated with modifications because of an agreement under section 20(2).

(2) If as a result it is necessary that another fundamental provision or a supplementary provision (see Chapter 4) is not incorporated, that other provision is not incorporated.

(3) If as a result it is necessary that another fundamental provision or a supplementary provision is incorporated with modifications, that provision is incorporated with the necessary modifications (in addition to any modifications made because of an agreement under section 20(2) or section 24(2)).

(4) But subsections (2) and (3) do not apply if their application would have the effect that a fundamental provision mentioned in section 20(3) would not be incorporated or would be incorporated with modifications; accordingly, the agreement mentioned in subsection (1)(a) or (b) has no effect.

22 Powers in relation to fundamental provisions

(1) The Welsh Ministers may by regulations provide that—

- (a) a provision of any enactment is a fundamental provision applicable to an occupation contract;
- (b) a provision of any enactment that is for the time being a fundamental provision applicable to an occupation contract ceases to be a fundamental provision applicable to an occupation contract.

(2) The Welsh Ministers may by regulations provide that—

- (a) section 20(1) does not apply to a fundamental provision;
- (b) section 20(2) does not apply to a fundamental provision.

(3) The power under section 256(2) to make consequential amendments includes, in its application to regulations under this section, the power to make consequential amendments to this Act.

CHAPTER 4

SUPPLEMENTARY PROVISIONS OF OCCUPATION CONTRACTS

23 Supplementary provisions

(1) The Welsh Ministers may by regulations provide that provisions set out in the regulations are incorporated as terms of occupation contracts (subject to sections 21,

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24(1) and (2) and 25); for the purposes of this Act such provisions are “supplementary provisions”.

- (2) Before making regulations under subsection (1), the Welsh Ministers must consult such persons as appear to them to be appropriate.
- (3) Sections 112 and 131 give the Welsh Ministers further powers to prescribe supplementary provisions relating to time limits for withdrawal of joint contract-holders from secure contracts and periodic standard contracts (and the Welsh Ministers must consult in accordance with subsection (2) before using those powers).
- (4) The Welsh Ministers may, under subsection (1), prescribe a provision in an enactment as a supplementary provision applicable to an occupation contract.
- (5) In this Act—

“supplementary provision” (“*darpariaeth atodol*”) (except in relation to sections 255 and 256) has the meaning given in subsection (1) of this section;

“supplementary term” (“*teler atodol*”), in relation to an occupation contract, means a term of the contract which incorporates a supplementary provision (with or without modifications).

Commencement Information

II S. 23 in force at 5.8.2016 for specified purposes by S.I. 2016/813, art. 2(a), Sch. Pt. 1

PROSPECTIVE

24 Incorporation and modification of supplementary provisions

- (1) A supplementary provision is not incorporated as a term of an occupation contract if the landlord and the contract-holder agree that it should not be incorporated.
- (2) A supplementary provision is incorporated as a term of an occupation contract with modifications if the landlord and the contract-holder agree that it should be incorporated with those modifications.
- (3) An agreement under subsection (1) or (2) that would make a supplementary term of an occupation contract incompatible with a fundamental term of the contract is of no effect.
- (4) Subsections (1) and (2) are subject to section 34 (landlord's failure to provide written statement of contract) and section 36 (incomplete written statement).

PROSPECTIVE

25 Effect of non-incorporation and modification of supplementary provisions

- (1) Subsections (2) and (3) apply where—
 - (a) a supplementary provision is not incorporated as a term of an occupation contract because of an agreement under section 24(1), or

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- (b) a supplementary provision is incorporated as a term of the contract with modifications because of an agreement under section 24(2).
- (2) If as a result it is necessary that another supplementary provision is not incorporated, the other provision is not incorporated.
- (3) If as a result it is necessary that another supplementary provision is incorporated with modifications, the other provision is incorporated with the necessary modifications (in addition to any modifications made because of an agreement under section 24(2)).

PROSPECTIVE

CHAPTER 5

KEY MATTERS AND ADDITIONAL TERMS OF OCCUPATION CONTRACTS

26 Key matters of all occupation contracts

The following are key matters in relation to all occupation contracts—

- (a) the dwelling,
- (b) the occupation date,
- (c) the amount of rent or other consideration, and
- (d) the rental periods.

27 Further key matters of standard contracts

The following are key matters in relation to standard contracts (in addition to those set out in section 26)—

- (a) whether the contract is periodic or made for a fixed term,
- (b) if it is made for a fixed term, the term for which it is made, and
- (c) if there are periods during which the contract-holder is not entitled to occupy the dwelling as a home, those periods (see sections 121 and 133).

28 Additional terms

- (1) Additional terms of an occupation contract are any express terms of the contract other than—
 - (a) the terms addressing the key matters in relation to the contract,
 - (b) the fundamental terms of the contract, and
 - (c) the supplementary terms of the contract.
- (2) An additional term of an occupation contract which is incompatible with any of the terms mentioned in paragraphs (a) to (c) of subsection (1) has no effect.
- (3) In this Act “additional terms” has the meaning given by subsection (1).

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CHAPTER 6

MODEL CONTRACTS

29 Model written statement of contract

- (1) The Welsh Ministers must prescribe model written statements of contracts for such kinds or descriptions of occupation contract as they think fit.
- (2) A model written statement of contract for an occupation contract of a particular kind or description is a written statement (see section 31) which incorporates without modification all the fundamental and supplementary provisions applicable to that contract.

Commencement Information

I2 S. 29 in force at 5.8.2016 for specified purposes by [S.I. 2016/813](#), art. 2(a), [Sch. Pt. 1](#)

Status:

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 20(3)(ma) inserted by [2019 anaw 2 Sch. 3 para. 4\(2\)](#)
- s. 135(2)(ia) inserted by [2019 anaw 2 Sch. 3 para. 4\(3\)](#)
- s. 177A inserted by [2019 anaw 2 Sch. 3 para. 2](#)
- s. 186A-186C inserted by [2019 anaw 2 Sch. 3 para. 4\(1\)](#)
- s. 198A inserted by [2019 anaw 2 Sch. 3 para. 5](#)
- Sch. 2 para. 4(b)-(e) substituted for Sch. 2 Pt. 2 para. 4(b)(c) by [S.I. 2018/195 reg. 56](#) (This amendment comes into force on the day on which the Renting Homes (Wales) Act 2016 (anaw 1), Sch. 2 para. 4 comes into force.)