



Renting Homes (Fees etc.) (Wales) Act 2019

2019 anaw 2

PART 4

ENFORCEMENT

Enforcement authority powers to require information etc.

10 Power to require documents or information

- (1) An authorised officer of an enforcement authority may exercise the powers conferred by subsections (2) and (3) in relation to documents or information reasonably required by the authority for the purpose of investigating whether any offence under this Act has been committed in respect of a dwelling located in the enforcement authority's area.
- (2) An authorised officer may give a notice to a person within subsection (4) requiring that person to produce, at a time and place, and to a person, specified in the notice, any documents which—
 - (a) are specified or described in the notice, or fall within a category of document specified or described in the notice, and
 - (b) are in the person's custody or under the person's control.
- (3) An authorised officer may give a notice to a person within subsection (4) requiring that person to provide, in a form and manner specified in the notice, and at a time and place and to a person specified in the notice, any information which—
 - (a) is specified or described in the notice, or falls within a category of information which is specified in the notice, and
 - (b) is known to the person.
- (4) The persons within this section are—
 - (a) a person who is or has been a landlord under a standard occupation contract;

- (b) a person who is or has been a contract-holder under a standard occupation contract;
 - (c) a person who is or has been a letting agent.
- (5) A notice under subsection (2) or (3) must include information about the possible consequences of not complying with the notice.
- (6) A person to whom any document is produced in accordance with a notice under subsection (2) or (3) may copy the document.
- (7) No person may be required under this section to produce any document or provide any information which the person would be entitled to refuse to produce or provide, in proceedings in the High Court, on grounds of legal professional privilege.
- (8) 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.

11 Offence of failing to comply with a notice under section 10

- (1) It is an offence for a person to fail to do anything required of the person by a notice under section 10.
- (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) It is an offence for a person to intentionally alter, suppress or destroy any document which the person has been required to produce by a notice under section 10.
- (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 in subsection (4) 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 in that subsection to suppressing a document includes a reference to destroying the means of reproducing the information.

12 Offence of providing false or misleading information in relation to a notice under section 10

- (1) It is an offence for a person given a notice under section 10, in purported compliance with the notice, to supply information that is false or misleading, if the person—
- (a) knows that the information supplied is false or misleading, or
 - (b) is reckless as to whether it is false or misleading.
- (2) It is an offence for a person to supply information that is false or misleading, if the person—
- (a) knows that the information is false or misleading, or is reckless as to whether it is false or misleading, and

- (b) knows that the information is to be used for the purpose of supplying information in purported compliance with the requirements of a notice given to another person under section 10.
- (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 a material respect.

Fixed penalty notices

13 Fixed penalty notices

- (1) Where an authorised officer of an enforcement authority has reason to believe that a person has committed an offence under section 2 or 3 in the authority’s area, the officer may give that person a fixed penalty notice in respect of the offence.
- (2) A fixed penalty notice, for the purposes of subsection (1), is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a penalty of £1000.
- (3) The Welsh Ministers may by regulations substitute a different amount for the amount for the time being specified in subsection (2).
- (4) A fixed penalty notice given under this section is to be treated as if it were given under section 29 of the [Housing \(Wales\) Act 2014 \(anaw 7\)](#) for the purposes of subsections (2), (3) and (6) to (8) of that section (provision about how fixed penalty notices are given), and for this purpose the reference in subsection (8)(a) of that section to “the licensing authority” is to be treated as being a reference to the enforcement authority in question.
- (5) Fixed penalty receipts received by an enforcement authority by virtue of this section may not be used otherwise than for the purpose of the authority’s functions relating to the enforcement of the provisions of this Act.

Notification of conviction to licensing authority

14 Duty of local housing authority to notify licensing authority of conviction

- (1) As soon as reasonably practicable after becoming aware that a person has been convicted of an offence under this Act in respect of a dwelling in its area, a local housing authority must comply with subsection (2).
- (2) The authority must give notification of the conviction to the licensing authority designated under section 3 of Part 1 of the [Housing \(Wales\) Act 2014 \(anaw 7\)](#), or, if there is more than one licensing authority so designated, to each of those authorities.
- (3) This section does not require a local housing authority to give a licensing authority notification of a conviction if the proceedings which led to the conviction were brought by the licensing authority under section 19.

Guidance

15 Duty to have regard to guidance

In exercising its functions under this Part an enforcement authority must have regard to any guidance issued by the Welsh Ministers.

Meaning of “authorised officer” in this Part

16 Meaning of “authorised officer”

Any reference in this Part to an authorised officer of an enforcement authority is a reference to a person (whether or not an officer of the authority) authorised in writing by the authority for the purposes of this Part.

The enforcement authority for the purposes of this Part

17 Enforcement authorities

- (1) For the purposes of this Part, each of the following is the enforcement authority in relation to the area of a local housing authority—
 - (a) the local housing authority for the area, and
 - (b) the licensing authority for the area.
- (2) But a licensing authority which, by virtue of subsection (1)(b), is the enforcement authority for the area of a local housing authority, may not exercise any function of an enforcement authority in relation to that area, nor bring proceedings under section 19 in relation to that area, without the prior written consent of the local housing authority for the area.
- (3) Consent under subsection (2) may be given generally or in relation to specific cases or functions.
- (4) For the purposes of this section, “licensing authority” means a person designated as a licensing authority under section 3 of Part 1 of the [Housing \(Wales\) Act 2014 \(anaw 7\)](#).
- (5) In this Part, references to the area of an enforcement authority are references to the area or, as the case may be, areas for which it is the enforcement authority.

Information sharing and power to bring criminal proceedings

18 Supply and use of information by enforcement authorities

- (1) If an enforcement authority requests information from another enforcement authority, that other authority must comply with the request unless it considers that doing so would be incompatible with the exercise of its functions (including functions exercisable otherwise than under this Part).
- (2) The information that may be requested of an enforcement authority under subsection (1) is information that has been obtained by that authority—
 - (a) under this section, or
 - (b) otherwise in the exercise of its functions under this Part.

- (3) An enforcement authority may use information within subsection (5)(a), (b) or (c) for any purpose connected to the exercise of the authority’s functions under this Part.
- (4) An enforcement authority may, in addition, use information within subsection (5)(a) or (b) for any purpose connected to the exercise of any of its functions under Part 1 of the [Housing \(Wales\) Act 2014 \(anaw 7\)](#) (“the 2014 Act”).
- (5) The information is information—
 - (a) that has been supplied to it by another enforcement authority under subsection (1);
 - (b) that has otherwise been obtained by the enforcement authority in the exercise of its functions under this Part;
 - (c) that, by virtue of section 36 of the 2014 Act, it is permitted to use for purposes connected to the exercise of its functions under Part 1 of that Act.
- (6) Section 17(2) does not apply in relation to the functions conferred on an enforcement authority by this section.

19 Power of licensing authority to bring criminal proceedings

An enforcement authority which is a licensing authority may bring criminal proceedings in respect of an offence alleged to have been committed under this Act in respect of a dwelling located in its area (but this is subject to section 17(2)).

Restrictions on termination by landlord of standard occupation contracts

20 Amendment of Renting Homes (Wales) Act 2016: restrictions on terminating contracts

Schedule 3 amends the [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#) to make provision in connection with prohibited payments and retained holding deposits, and makes further associated amendments.

Guidance to a licensing authority under Part 1 of the Housing (Wales) Act 2014

21 Amendment to section 41 of Housing (Wales) Act 2014

In section 41 of the [Housing \(Wales\) Act 2014 \(anaw 7\)](#) (guidance under Part 1 of Act), after subsection (2) insert—

“(2A) Guidance given to a licensing authority may (among other things) include provision about matters to be taken into account by a licensing authority in deciding whether a failure to repay the amount of any prohibited payment or holding deposit (within the meaning of the Renting Homes (Fees etc.) (Wales) Act 2019) affects a person’s fitness to be licensed under this Part.”