Renting Homes (Wales) Act 2016

2016 anaw 1

PART 4

CONDITION OF DWELLING

CHAPTER 1

INTRODUCTORY

89 Application of Part

(1) Chapter 2 applies to all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years (see section 90).

(2) Chapter 3 applies to all occupation contracts.

Commencement Information

I1 S. 89 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

90 Fixed term standard contracts: determining the length of term

(1) This section applies for the purpose of determining the term for which a fixed term standard contract is made.

(2) If a fixed term standard contract is a tenancy, it is to be treated as made for a term commencing with the grant of the tenancy.

(3) If a fixed term standard contract is a licence, it is to be treated as made for a term commencing with the occupation date of the contract.

Changes to legislation: *Renting Homes (Wales) Act 2016, PART 4 is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) A fixed term standard contract is to be treated as made for a term of less than seven years if it is determinable at the option of the landlord before the end of the period of seven years starting with the commencement of the term.

(5) If a fixed term standard contract confers on the contract-holder an option for renewal for a term which, together with the original term, amounts to seven years or more, it is not to be treated as made for a term of less than seven years (unless subsection (4) applies).

Commencement Information

I2 S. 90 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

CHAPTER 2

CONDITION OF DWELLING

(THIS CHAPTER APPLIES TO ALL SECURE CONTRACTS, ALL PERIODIC STANDARD CONTRACTS, AND ALL FIXED TERM STANDARD CONTRACTS MADE FOR A TERM OF LESS THAN SEVEN YEARS)

Landlord's obligations as to condition of dwelling

91 Landlord's obligation: fitness for human habitation

(1) The landlord under a secure contract, a periodic standard contract or a fixed term standard contract made for a term of less than seven years must ensure that the dwelling is fit for human habitation—

(a) on the occupation date of the contract, and

(b) for the duration of the contract.

(2) The reference in subsection (1) to the dwelling includes, if the dwelling forms part only of a building, the structure and exterior of the building and the common parts.

(3) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

Commencement Information

I3 S. 91 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

92 Landlord's obligation to keep dwelling in repair

(1) The landlord under a secure contract, a periodic standard contract or a fixed term standard contract made for a term of less than seven years must—

(a) keep in repair the structure and exterior of the dwelling (including drains, gutters and external pipes), and

(b) keep in repair and proper working order the service installations in the dwelling.

(2) If the dwelling forms part only of a building, the landlord must—

(a) keep in repair the structure and exterior of any other part of the building (including drains, gutters and external pipes) in which the landlord has an estate or interest, and

(b) keep in repair and proper working order a service installation which directly or indirectly serves the dwelling, and which either—

(i) forms part of any part of the building in which the landlord has an estate or interest, or

(ii) is owned by the landlord or is under the landlord's control.

(3) The standard of repair required by subsections (1) and (2) is that which is reasonable having regard to the age and character of the dwelling, and the period during which the dwelling is likely to be available for occupation as a home.

(4) In this Part, "service installation" means an installation for the supply of water, gas or electricity, for sanitation, for space heating or for heating water.

(5) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

Commencement Information

I4 S. 92 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

93 Obligations under sections 91 and 92: supplementary

(1) The landlord must make good any damage caused by works and repairs carried out in order to comply with the landlord's obligations under section 91 or 92.

(2) The landlord may not impose any obligation on the contract-holder in the event of the contract-holder's enforcing or relying on the landlord's obligations under section 91 or 92.

(3) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

Commencement Information

I5 S. 93 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

94 Determination of fitness for human habitation

(1) The Welsh Ministers must prescribe matters and circumstances to which regard must be had when determining, for the purposes of section 91(1), whether a dwelling is fit for human habitation.

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(2) In exercising the power in subsection (1), the Welsh Ministers may prescribe matters and circumstances—

(a) by reference to any regulations made by the Welsh Ministers under section 2 of the Housing Act 2004 (c. 34) (meaning of "category 1 hazard" and "category 2 hazard");

(b) which may arise because of a failure to comply with an obligation under section 92.

(3) The Welsh Ministers may by regulations—

(a) impose requirements on landlords for the purpose of preventing any matters or circumstances which may cause a dwelling to be unfit for human habitation from arising;

(b) prescribe that if requirements imposed under paragraph (a) are not complied with in respect of a dwelling, the dwelling is to be treated as if it were unfit for human habitation.

Commencement Information

I6 S. 94 in force at 5.8.2016 for specified purposes by S.I. 2016/813, art. 2(a), **Sch. Pt. 1**

I7 S. 94 in force at 1.12.2022 in so far as not already in force by S.I. 2022/906, **art. 2**

Limits on landlord's obligations under this Chapter

95 Limits on sections 91 and 92: general

(1) Section 91(1) does not impose any liability on a landlord in respect of a dwelling which the landlord cannot make fit for human habitation at reasonable expense.

(2) Sections 91(1) and 92(1) do not require the landlord—

(a) to keep in repair anything which the contract-holder is entitled to remove from the dwelling, or

(b) to rebuild or reinstate the dwelling or any part of it, in the case of destruction or damage by a relevant cause.

(3) If the dwelling forms part only of a building, sections 91(1) and 92(2) do not require the landlord to rebuild or reinstate any other part of the building in which the landlord has an estate or interest, in the case of destruction or damage by a relevant cause.

(4) Relevant causes are fire, storm, flood or other inevitable accident.

(5) Section 92(2) does not require the landlord to carry out works or repairs unless the disrepair or failure to keep in proper working order affects the contract-holder's enjoyment of—

(a) the dwelling, or

(b) the common parts that the contract-holder is entitled to use under the occupation contract.

(6) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

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Modifications etc. (not altering text)

C1 Ss. 95-97 applied (with modifications) (1.12.2022) by 2002 c. 15, Sch. 7 para. 3A(5) (as inserted by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **27(2)(b)**)

Commencement Information

I8 S. 95 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

96 Limits on sections 91 and 92: contract-holder's fault

(1) Section 91(1) does not impose any liability on the landlord if the dwelling is unfit for human habitation wholly or mainly because of an act or omission (including an act or omission amounting to lack of care) of the contract-holder or a permitted occupier of the dwelling.

(2) The landlord is not obliged by section 92(1) or (2) to carry out works or repairs if the disrepair, or the failure of a service installation to be in working order, is wholly or mainly attributable to lack of care by the contract-holder or a permitted occupier of the dwelling.

(3) "Lack of care" means a failure to take proper care—

(a) of the dwelling, or

(b) if the dwelling forms part only of a building, of the common parts that the contract-holder is entitled to use under the occupation contract.

(4) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

Modifications etc. (not altering text)

C1 Ss. 95-97 applied (with modifications) (1.12.2022) by 2002 c. 15, Sch. 7 para. 3A(5) (as inserted by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **27(2)(b)**)

Commencement Information

I9 S. 96 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

97 Limits on sections 91 and 92: notice

(1) The landlord's obligations under sections 91(1)(b) and 92(1) and (2) do not arise until the landlord (or in the case of joint landlords, any one of them) becomes aware that works or repairs are necessary.

(2) The landlord complies with the obligations under those provisions if the landlord carries out the necessary works or repairs within a reasonable time after the day on which the landlord becomes aware that they are necessary.

(3) Subsection (4) applies if—

(a) the landlord (the "old landlord") transfers the old landlord's interest in the dwelling to another person (the "new landlord"), and

(b) the old landlord (or where two or more persons jointly constitute the old landlord, any one of them) is aware before the date of the transfer that works or repairs are necessary in order to comply with section 91(1) or 92(1) or (2).

(4) The new landlord is to be treated as becoming aware of the need for those works or repairs on the date of the transfer, but not before.

(5) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

Modifications etc. (not altering text)

C1 Ss. 95-97 applied (with modifications) (1.12.2022) by 2002 c. 15, Sch. 7 para. 3A(5) (as inserted by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **27(2)(b)**)

Commencement Information

I10 S. 97 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

Access to dwellings and rights of permitted occupiers

98 Landlord's right to access dwelling

(1) The landlord may enter the dwelling at any reasonable time for the purpose of—

(a) inspecting its condition and state of repair, or

(b) carrying out works or repairs needed in order to comply with section 91 or 92.

(2) The landlord must give at least 24 hours' notice to the contract-holder before exercising that right.

(3) Subsection (4) applies where—

(a) the dwelling forms part only of a building, and

(b) in order to comply with section 91 or 92 the landlord needs to carry out works or repairs in another part of the building.

(4) The landlord is not liable for failing to comply with section 91 or 92 if the landlord does not have sufficient rights over that other part of the building to be able to carry out the works or repairs, and was unable to obtain such rights after making a reasonable effort to do so.

(5) This section is a fundamental provision which is incorporated as a term of all secure contracts, all periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years.

Modifications etc. (not altering text)

C2 S. 98 modified (1.12.2022) by 2002 c. 15, Sch. 7 para. 3A(6) (as inserted by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **27(2)(b)**)

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Commencement Information
I11 S. 98 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

99 Rights of permitted occupiers to enforce Chapter

(1) A permitted occupier who suffers personal injury, or loss of or damage to personal property, as a result of the landlord failing to comply with section 91 or 92 may enforce the section in question in his or her own right by bringing proceedings in respect of the injury, loss or damage.

(2) But a permitted occupier who is a lodger or sub-holder may do so only if the lodger is allowed to live in the dwelling, or the sub-occupation contract is made, in accordance with the occupation contract.

(3) This section is a fundamental provision which is incorporated as a term of all secure contracts, periodic standard contracts, and fixed term standard contracts made for a term of less than seven years.

Commencement Information
I12 S. 99 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

CHAPTER 3

MISCELLANEOUS

(THIS CHAPTER APPLIES TO ALL OCCUPATION CONTRACTS)

100 Specific performance

(1) In any proceedings for breach of a repairing obligation under an occupation contract, the court may order specific performance of the obligation despite any equitable rule limiting the availability of that remedy.

(2) Repairing obligations are—
  (a) obligations to repair (or keep or deliver up in repair), or to maintain, renew, construct or replace any property, and
  (b) obligations to keep any dwelling fit for human habitation however expressed,

and include a landlord's obligations under sections 91 and 92.

Commencement Information
I13 S. 100 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

101 Waste and tenant-like user

(1) The contract-holder under an occupation contract is not liable for waste in respect of the dwelling.

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(2) The rule of law under which a tenant has an implied duty to use demised premises in a tenant-like manner does not apply to a contract-holder if the tenancy is an occupation contract.

Commencement Information

I14 S. 101 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

Changes to legislation:
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View outstanding changes

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. 186A-186C inserted by 2019 anaw 2 Sch. 3 para. 4(1)
– s. 198A inserted by 2019 anaw 2 Sch. 3 para. 5