
WELSH STATUTORY INSTRUMENTS

2022 No. 6 (W. 4)

HOUSING, WALES

The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022

Made - - - - 7 January 2022

Laid before Senedd Cymru 12 January 2022

Coming into force in accordance with regulation 1

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 94(1), (2)(b) and (3) and 256(1) of the Renting Homes (Wales) Act 2016⁽¹⁾.

Title and commencement

1. The title of these Regulations is the Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022 and they come into force on the day on which section 239 of the Act comes into force⁽²⁾.

Interpretation

2.—(1) Words and expressions used in these Regulations have the same meaning as they have in the Act.

(2) In these Regulations—

“period of occupation” (“*cyfnod meddiannaeth*”) means, in relation to an occupation contract, the period—

- (a) starting with the occupation date of the contract, and
- (b) ending when the contract ends; and

“the Act” (“*y Ddeddf*”) means the Renting Homes (Wales) Act 2016.

(3) This regulation is subject to regulation 7.

⁽¹⁾ 2016 [anaw 1](#). See section 252 for the definition of “prescribed”.

⁽²⁾ Section 239 of the Renting Homes (Wales) Act 2016 comes into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.

Determining fitness for human habitation

3. In determining, for the purposes of section 91(1) of the Act, whether a dwelling is fit for human habitation, regard must be had to the presence or occurrence, or the likely presence or occurrence, of the matters and circumstances listed in the Schedule.

Occupation contracts to which regulations 5 to 8 apply

4. Regulations 5 to 8 apply only in relation to—

- (a) a secure contract,
- (b) a periodic standard contract, and
- (c) a fixed term standard contract made for a term of less than 7 years⁽³⁾,

which incorporates section 91 of the Act as a term of the contract.

Smoke alarms and carbon monoxide alarms

5.—(1) The landlord must ensure that, during each period of occupation, on each storey of the dwelling there is a smoke alarm which is—

- (a) in repair and proper working order,
- (b) connected to the dwelling's electrical supply, and
- (c) linked to every other smoke alarm in the dwelling which is connected to the electrical supply.

(2) The landlord must ensure that, during each period of occupation, a carbon monoxide alarm which is in repair and proper working order is in each room of the dwelling which contains a gas appliance, an oil-fired combustion appliance or a solid fuel burning combustion appliance.

(3) A dwelling is to be treated as unfit for human habitation at a time when the landlord is not in compliance with a requirement imposed by paragraph (1) or (2).

(4) For the purposes of paragraph (3), a landlord who has not complied with—

- (a) paragraph (1) is to be treated as in compliance with that paragraph from the time the landlord ensures that a smoke alarm is (or smoke alarms are) present in the dwelling as described in that paragraph;
- (b) paragraph (2) is to be treated as in compliance with that paragraph from the time the landlord ensures that a carbon monoxide alarm is (or carbon monoxide alarms are) present in the dwelling as described in that paragraph.

(5) In this regulation—

“gas” (“*nwy*”) has the meaning given by section 48(1) of the Gas Act 1986⁽⁴⁾;

“gas appliance” (“*cyfarpar nwy*”) means an appliance designed for use by a consumer of gas for heating, lighting, cooking or other purposes for which gas can be used, but it does not include—

- (a) a portable or mobile appliance supplied with gas from a cylinder, or the cylinder, pipes and other fittings used for supplying gas to that appliance, or
- (b) an appliance which the contract-holder is entitled to remove from the dwelling under the terms of the occupation contract;

“room” (“*ystafell*”) includes a hall, landing or corridor.

(3) See section 90 of the Act which makes provision for determining whether fixed term standard contracts are to be treated as being made for less, or more, than, 7 years.

(4) 1986 c. 44. There are amendments to section 48 which are not relevant to these Regulations.

Electrical safety

6.—(1) The landlord must ensure that there is a valid electrical condition report in respect of the dwelling during each period of occupation.

(2) An electrical condition report—

(a) is a condition report setting out the results of an electrical safety inspection carried out by a qualified person;

(b) is valid—

(i) until the end of the period of 5 years beginning with the day on which the electrical safety inspection is carried out (“the inspection date”), or

(ii) if the electrical condition report states that the next electrical safety inspection should be carried out less than 5 years after the inspection date, until the end of the day by which, in accordance with the report, the next electrical safety inspection should be carried out.

(3) The landlord must ensure that the contract-holder is, before the end of the period of 7 days starting with the occupation date, given—

(a) a copy of the most recent electrical condition report, and

(b) where investigatory or remedial work has been carried out on or in relation to an electrical service installation in the dwelling after the electrical safety inspection to which that report relates (and before the occupation date), written confirmation of work.

(4) Where an electrical safety inspection is carried out after the occupation date, the landlord must ensure that the contract-holder is given a copy of the electrical condition report relating to the inspection before the end of the period of 7 days starting with the day on which the inspection was completed.

(5) Where investigatory or remedial work is carried out on or in relation to an electrical service installation in the dwelling after the occupation date, the landlord must ensure that the contract-holder is given written confirmation of work before the end of the period of 7 days starting with the day on which the landlord received the confirmation.

(6) A dwelling is to be treated as unfit for human habitation at a time when the landlord is not in compliance with a requirement imposed by this regulation.

(7) For the purposes of paragraph (6), a landlord—

(a) who has not complied with paragraph (1) is to be treated as in compliance with that paragraph at any time when—

(i) the landlord has obtained an electrical condition report, and

(ii) that report is valid.

(b) who has not complied with paragraph (3)(a) or (4) is to be treated as in compliance with the provision in question from the time the contract-holder is given a copy of the most recent valid electrical condition report;

(c) who has not complied with paragraph (3)(b) or (5) is to be treated as in compliance with the provision in question from the time the contract-holder is given written confirmation of work.

(8) In this regulation—

“electrical safety inspection” (“*archwiliad diogelwch trydanol*”) means the inspection and testing of every electrical service installation in a dwelling in accordance with the electrical safety standards⁽⁵⁾;

“electrical safety standards” (“*safonau diogelwch trydanol*”) means the standards for electrical service installations set out in the eighteenth edition of the Wiring Regulations, published by the Institution of Engineering and Technology and the British Standards Institution as BS 7671:2018+A1:2020⁽⁶⁾;

“electrical service installation” (“*gosodiad gwasanaeth trydanol*”) means an installation for the supply of electricity; and references to an electrical service installation in a dwelling include, where the dwelling forms part only of a building, an electrical service installation which directly or indirectly serves the dwelling, and which either—

- (a) forms part of any part of the building in which the landlord has an estate or interest, or
- (b) is owned by the landlord or is under the landlord’s control;

“qualified person” (“*person cymwysedig*”) means a person who is competent to undertake the inspection and testing of an electrical service installation, and any further investigative or remedial work, in accordance with the electrical safety standards;

“written confirmation of work” (“*cadarnhad ysgrifenedig o’r gwaith*”) means, in relation to investigatory or remedial work, a copy of written confirmation, from a qualified person, that the work in question has been carried out.

Application to converted contracts

7.—(1) This regulation applies in relation to a converted contract.

(2) In regulations 5(1) and 6(1), “period of occupation” means the period—

- (a) starting with the day which is 12 months after the conversion date, and
- (b) ending when the contract ends.

(3) In regulation 5(2), “period of occupation” means the period—

- (a) starting with the conversion date, and
- (b) ending when the contract ends.

(4) In regulation 6(3), “occupation date” means the day which is 12 months after the conversion date.

(5) Regulation 6 is to be read as if for paragraph (4) there were substituted—

“(4) Where an electrical safety inspection is carried out after the contract-holder has been given a report in accordance with sub-paragraph (a) of paragraph (3) (as modified by regulation 7(4)), the landlord must ensure that the contract-holder is given a copy of the electrical condition report relating to the inspection before the end of the period of 7 days starting with the day on which the inspection was completed.”

(6) In this regulation, “conversion date”, in relation to a converted contract, means the date on which the tenancy or licence became an occupation contract under section 240 of the Act⁽⁷⁾.

(5) See section 92 of the Act which (where incorporated as a term of an occupation contract) provides that the landlord must keep the electrical service installations in the dwelling in repair and proper working order.

(6) BS 7671:2018 (ISBN-13: 978-1-78561-170-4) published in July 2018, as corrected by a corrigendum dated December 2018; amended by Amendment 1:2020 issued on 1st February 2020 (ISBN-13: 978-1-83953-193-4); and corrected by a corrigendum to BS 7671:2018+A1:2020 dated May 2020. Copies can be obtained from the Institution of Engineering and Technology, Michael Faraday House, Six Hill Way, Stevenage, SG1 2AY.

(7) Conversion takes place on the appointed day. This is defined by section 242 of the Act.

Transitional provision relating to regulation 6: pre-existing electrical condition reports

8. For the purposes of regulation 6(1), it does not matter if the valid electrical condition report was obtained before these Regulations came into force.

7 January 2022

Julie James
Minister for Climate Change, one of the Welsh
Ministers

SCHEDULE

Regulation 3

Matters and Circumstances

Damp, mites and mould or fungal growth

1. Exposure to house dust mites, damp, mould or fungal growths.

Cold

2. Exposure to excessively low temperatures.

Heat

3. Exposure to excessively high temperatures.

Asbestos and manufactured mineral fibres

4. Exposure to asbestos fibres or manufactured mineral fibres.

Biocides

5. Exposure to chemicals used to treat timber or mould growth.

Carbon monoxide and fuel combustion products

6. Exposure to—
 - (a) carbon monoxide;
 - (b) nitrogen dioxide;
 - (c) sulphur dioxide and smoke.

Lead

7. The ingestion of lead.

Radiation

8. Exposure to radiation.

Uncombusted fuel gas

9. Exposure to uncombusted fuel gas.

Volatile organic compounds

10. Exposure to volatile organic compounds.

Crowding and space

11. A lack of adequate space for living and sleeping.

Entry by intruders

12. Difficulties in keeping the dwelling secure against unauthorised entry.

Lighting

13. A lack of adequate lighting.

Noise

14. Exposure to noise.

Domestic hygiene, pests and refuse

- 15.—(1) Poor design, layout or construction such that the dwelling cannot readily be kept clean.
- (2) Exposure to pests.
- (3) An inadequate provision for the hygienic storage and disposal of household waste.

Food safety

16. An inadequate provision of facilities for the storage, preparation and cooking of food.

Personal hygiene, sanitation and drainage

17. An inadequate provision of—
 - (a) facilities for maintaining good personal hygiene;
 - (b) sanitation and drainage.

Water supply

18. An inadequate supply of water free from contamination, for drinking and other domestic purposes.

Falls associated with baths etc.

19. Falls associated with toilets, baths, showers or other washing facilities.

Falling on surfaces

20. Falling on a surface.

Falling on stairs etc.

21. Falling on stairs, steps or ramps.

Falling between surfaces

22. Falling from one surface to another (including falling from height).

Electrical hazards

23. Exposure to electricity.

Fire

24. Exposure to uncontrolled fire and associated smoke.

Flames, hot surfaces etc.

25. Contact with—
- (a) controlled fire or flames;
 - (b) hot objects, liquid or vapours.

Collision and entrapment

26. Collision with, or entrapment of body parts in, doors, windows or other architectural features.

Explosions

27. An explosion at the dwelling.

Position and operability of amenities etc.

28. The position, location and operability of amenities, fittings and equipment.

Structural collapse and falling elements

29. The collapse of the whole or part of the dwelling including falling elements.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 91 of the Renting Homes (Wales) Act 2016 (anaw 1) (“the Act”) requires a landlord, under a secure contract, a periodic standard contract or a fixed term standard contract made for a term of less than 7 years, to ensure that the dwelling is fit for human habitation, and section 92 requires the landlord to keep the dwelling in repair.

Section 94(1) requires the Welsh Ministers to prescribe matters and circumstances to which regard must be had when determining whether a dwelling is fit for human habitation, and section 94(2) enables the Welsh Ministers to prescribe matters and circumstances which may arise because of a landlord’s failure to keep the dwelling in repair. Section 94(3) enables the Welsh Ministers to impose requirements on landlords for the purpose of preventing those matters or circumstances from arising and to prescribe that if those requirements are not complied with, the dwelling is to be treated as if it were unfit for human habitation.

Regulation 3 and the Schedule prescribe the matters and circumstances to which regard must be had when determining whether a dwelling is fit for human habitation. This includes certain matters and circumstances which may arise because of a landlord’s failure to keep the dwelling in repair.

Regulation 4 provides that regulations 5 to 8 apply in relation to a secure contract, a periodic standard contract or a fixed term standard contract made for a term of less than 7 years, and which incorporate section 91 of the Act as a term of the contract. Regulation 4 applies regulations 5 to 8 to the same kinds of occupation contract as regulation 3.

Regulations 5 and 6 impose requirements on a landlord for the purpose of preventing any matters or circumstances which may cause a dwelling to be unfit for human habitation from arising.

Regulation 5 requires that smoke alarms and carbon monoxide alarms, in repair and proper working order, are present in a dwelling.

Regulation 6 requires that the electrical service installations in a dwelling are subject to inspection and testing (“an electrical safety inspection”) by a qualified person at intervals of 5 years or less; and that a copy of the condition report setting out the results of the electrical safety inspection is given to the contract-holder. If works are carried out on a dwelling’s electrical service installations between electrical safety inspections, the landlord must ensure that the contract-holder is given written confirmation that the works have been carried out.

Where a landlord fails to comply with a requirement imposed by regulation 5 or 6, the dwelling is to be treated as if it were unfit for human habitation; and the dwelling will continue to be treated as if it were unfit for human habitation under those regulations until the failure has been rectified by the landlord (see Part 4 of the Act for further provision about circumstances in which the obligations and liabilities of a landlord under that Part arise). If the failure re-occurs after rectification, the dwelling will again be treated as unfit for human habitation until it is rectified.

The landlord is in any event subject to the obligations in section 92 of the Act (if incorporated into the occupation contract) to keep electrical service installations in repair and proper working order. Those obligations will be relevant where an electrical safety inspection reveals that there are issues with an installation.

Regulation 7 makes provision about how these regulations operate in relation to existing tenancies and licences that become occupation contracts when the Act comes into force. Landlords under those contracts will have additional time within which to ensure compliance.

Regulation 8 makes provision relating to regulation 6, allowing landlords to rely on electrical condition reports obtained before these Regulations come into force.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Housing, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF48 1UZ.