

SL(6)130 - The Renting Homes (Supported Standard Contracts) (Supplementary Provisions) (Wales) Regulations 2022

Background and Purpose

The Renting Homes (Supported Standard Contracts) (Supplementary Provisions) (Wales) Regulations 2022 (“the Regulations”) are made in exercise of the powers conferred by sections 23(1), 131 and 256(1) of the Renting Homes (Wales) Act 2016 (“2016 Act”). The Regulations come into force on a day to be appointed by the Welsh Ministers in accordance with regulation 1.

The 2016 Act seeks to make it simpler and easier to rent a home in Wales by replacing various, complex pieces of existing legislation with one clear legal framework. New “occupation contracts” will replace current residential tenancies and licenses, making the rights and obligations of both landlord and tenant or licensee (referred to in the 2016 Act as the “contract-holder”) much clearer.

All occupation contracts will include the relevant fundamental terms, which are set out in the 2016 Act as fundamental provisions. These deal with the essential rights and obligations of landlords and contract-holders. Supplementary terms deal with practical matters which help to make the occupation contract work, such as enabling a landlord to access a property to undertake repairs or maintenance. The supplementary terms are set out as provisions in regulations rather than in the 2016 Act itself. This is to more easily allow for any future changes in housing legislation or practice to be incorporated into occupation contracts than would otherwise be the case.

The Regulations set out the supplementary provisions which are, subject to sections 21, 24 and 25 of the 2016 Act, incorporated into supported standard contracts, as supplementary terms. However, at the creation of the occupation contract, the parties may agree that a supplementary provision is modified or that it is not included in the occupation contract. But, a modification or omission must not render the occupation contract incompatible with any fundamental term of the contract.

Regulation 4 of the Regulations requires the contract-holder to obtain the landlord’s consent before carrying on a trade or business at the dwelling.

Regulation 5 requires the contract-holder to obtain the landlord’s consent before allowing lodgers to live at the dwelling.

Regulation 6 requires the landlord to provide an inventory to the contract-holder, within a specified timescale. It also makes provision enabling the contract-holder to make comments on the inventory and how the landlord may respond to those comments.



Regulation 7 provides the contract-holder is not liable for rent for each day (or part day) the dwelling is unfit for human habitation.

Regulation 8 requires the landlord to provide, within 14 days of any request by the contract-holder, a written receipt for rent or other consideration paid by the contract-holder.

Regulation 9 sets out how a contract-holder may change the providers of utilities to the dwelling.

Regulation 10 imposes a number of requirements on the contract-holder in relation to the care of the dwelling, fixtures and fittings within the dwelling and any items listed in the inventory. This includes requiring the contract-holder to obtain the landlord's consent before removing any of the fixtures and fittings or any items listed in the inventory from the dwelling. It requires the contract-holder to keep the dwelling in reasonable decorative order. It also prohibits the contract-holder from keeping anything in the dwelling that would be a health and safety risk.

Regulation 11 requires the contract-holder to report to the landlord any fault, defect, damage or disrepair within the dwelling which the contract-holder reasonably believes is the landlord's responsibility. It also requires the contract-holder to undertake those repairs that they reasonably believe are not the landlord's responsibility.

Regulation 12 provides the landlord with a right, having given 24 hours' notice, to enter the dwelling at any reasonable time for the purpose of carrying out those repairs that were the contract-holder's responsibility that have not been undertaken.

Regulation 13 requires the contract-holder to give the landlord immediate access to the dwelling to deal with an emergency. It sets out that the landlord may access the dwelling in an emergency if the contract-holder does not provide access.

Regulation 14 requires the contract-holder to keep the dwelling secure and sets out that the contract-holder can change the locks in the dwelling, provided the changes provide no less security, and that copies of any new keys are given to the landlord.

Regulation 15 requires the contract-holder to obtain the landlord's consent before making alterations to the dwelling and defines "alteration" for the purposes of this regulation.

Regulation 16 requires a contract-holder, at the end of the occupation contract, to remove from the dwelling their belongings and the belongings of any permitted occupiers. It also requires any property belonging to the landlord to be returned to the position it was in at the beginning of the occupation contract, and requires keys to be returned.

Regulation 17 prescribes the notice period to be given to the landlord by a joint contract-holder who wishes to withdraw from the occupation contract.

Regulation 18 requires the landlord to repay (within a reasonable time) the contract-holder any pre-paid rent or other consideration which relates to any period falling after the end of the contract.



Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 6 deals with the provision of an inventory. Regulation 6(5) sets out the actions that the landlord must take to address any comments made by the contract-holder in relation to the inventory. No time frame is set within which the landlord must take these actions, which may give rise to issues with the enforceability of the provision – if the landlord is not required to comply within a certain time then it is more difficult for a contract-holder to present an argument that compliance should already have occurred. The Welsh Government is asked to explain why no time frame is set for landlords to comply with the requirements in regulation 6(5).

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

Regulations 12 and 13 give the landlord the right to enter the dwelling. The 2016 Act provides that a landlord may be a “private landlord” or a “community landlord”, and the latter can include a local authority by virtue of section 9 of that Act. If this right is exercised by a public body such as a local authority, then it may interfere with the contract-holder’s right to private life under article 8 of the European Convention on Human Rights (“ECHR”). Similarly, it could interfere with the contract-holder’s right to the peaceful enjoyment of their possessions under article 1 of the First Protocol to the ECHR. The Welsh Government is asked to provide details of the human rights assessment that it undertook in relation to regulations 12 and 13.

Welsh Government response

A Welsh Government response is required.



Legal Advisers
Legislation, Justice and Constitution Committee
25 January 2022



Senedd Cymru
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—
Welsh Parliament
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