

# SL(6)132 – The Renting Homes (Explanatory Information for Written Statements of Occupation Contracts) (Wales) Regulations 2022

## Background and Purpose

These Regulations prescribe the explanatory information that must be contained in a written statement of an occupation contract issued in accordance with section 31 of the Renting Homes (Wales) Act 2016 (“the Act”).

The Act establishes two types of occupation contract, the secure contract and the standard contract. The Act also establishes a number of different types of standard contract which can be used in particular circumstances.

Regulation 3 of these Regulations prescribe explanatory information which must be contained in all written statements of occupation contracts. Regulations 5 to 9 prescribe explanatory information which must be contained in written statements of specific types of occupation contracts.

## 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 3 points are 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.**

Section 31 of the Act requires a landlord to provide a contract-holder with a written statement of their occupation contract within 14 days of the occupation date. If the landlord fails to do so, the landlord may be required to pay compensation to the contract-holder. Section 35 of the Act makes provision about the duration of the period in respect of which compensation is payable. For example, if a contract-holder first occupies premises on 1 January, the landlord must provide a written statement within 14 days, i.e. before the end of 14 January. If the landlord fails to do so, compensation is payable for every day from 1 January onwards (subject to a maximum of 2 months).



However, regulation 3(g) of these Regulations says that the written statement must include an explanation that, for each day the written statement is late, the landlord may be liable to pay compensation to the contract-holder for each day the written statement is not provided.

We are concerned that regulation 3(g) could easily be read as saying that compensation is payable in respect only of the period that begins after the initial 14-day period has passed. We believe it is easy to read "liable to pay compensation...for each day the written statement is late" as excluding compensation being payable in respect of the 14-day period itself. Applying the example above, such a reading would mean that compensation is not payable in respect of the period 1 to 14 January. However, such an interpretation would be contrary to the position we set out above under section 31 and 35 of the Act.

We would be grateful if the Welsh Government could confirm whether our understanding of the Act is correct, and whether the Welsh Government believes the Regulations should be clearer as to the period in respect of which compensation is payable.

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

Regulation 5(b) requires written statements of periodic standard contracts to contain an explanation that, before a court can make a possession order, the landlord must demonstrate that all the correct procedures have been followed and that certain conditions (depending on the particular circumstances) have been satisfied.

Regulation 5(b)(iv)(aa) requires a specific explanation that, where such contracts incorporate section 173 of the Act (landlord's notice), the landlord must demonstrate that:

- the landlord has given the contract-holder notice under section 173 that they must give up possession on a specified date in the notice, and
- no restrictions on giving notice under section 173 apply, including specific restrictions set out in sections 75 and 98 of the Housing Act 2004 and section 44 of the Housing (Wales) Act 2014.

We would be grateful if the Welsh Government could clarify the legislative basis for requiring a landlord to comply with the specific restrictions referred to above in order to give notice under section 173 of the Act.

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

Regulation 8(b)(v) requires the provision of certain explanatory information in circumstances where a fixed term standard occupation contract incorporates section 194 of the Act as a term of that contract. The specified information includes the landlord needing to demonstrate that where the occupation contract is within:

- Schedule 8A to the Act, the contract-holder was given an least two months' notice that they must give up possession (Regulation 8(b)(v)(cc)); and



- Either Schedule 8A, Schedule 9 or Schedule 9C to the Act (or any combination of them), the contract-holder was given the relevant notice that they must give up possession (Regulation 8(b)(v)(dd)).

The Welsh Government is asked to clarify the reason for referring to occupation contracts within Schedule 8A in Regulation 8(b)(v)(dd), given that a minimum notice period for these contracts of two months' is already specified in Regulation 8(b)(v)(cc).

## Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Welsh Government response

A Welsh Government response is required.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**26 January 2022**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Legislation, Justice and Constitution Committee**