

# SL(6)131 - The Renting Homes (Supplementary Provisions) (Wales) Regulation 2022

## Background and Purpose

These Regulations set out the supplementary provisions which are, subject to sections 21, 24 and 25 of the Renting Homes (Wales) Act 2016 ("the Act"), incorporated into occupation contracts as supplementary terms.

The default position is that supplementary provisions are incorporated as supplementary terms of an occupation contract. 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. A modification or omission must not render the occupation contract incompatible with any fundamental term of the contract.

The Regulations set out supplementary provisions which apply to different types of occupation contracts and deal with matters such as:

- landlord's consent to carry on a trade or business at the dwelling;
- persons permitted to live at the dwelling;
- how to change utility providers;
- the dwelling being unoccupied;
- what happens to property at the dwelling at the end of the occupation contract;
- repayment of pre-paid rent or other consideration after the end of the contract;
- non-payment of rent when the dwelling is unfit for human habitation;
- provision of rent receipts;
- care of the dwelling, fixtures and fittings and any items listed in any inventory;
- reporting problems with the dwelling and carrying out repairs;
- the notice period to be given to the landlord by a joint contract-holder who wishes to withdraw from the occupation contract;
- occupation of the dwelling as a principal home;
- keeping the dwelling secure and changing the locks;
- consent to alteration to any structures in the dwelling;
- transfer of the occupation contract;
- provision of advice to the contract-holder following a report of prohibited conduct, such as anti-social behaviour;
- provision of an inventory and the process to agree it;
- retention of documents relating to the dwelling; and
- consent regarding lodgers.

## 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 27 deals with the provision of an inventory under certain types of occupation contract. Regulation 27(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 27(5).

## Merits Scrutiny

The following two points are 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.**

The Explanatory Note to the Regulations states that:

*Regulation 5 provides that the contract-holder may permit persons who are not lodgers or sub-holders to live in the dwelling. Neither the landlord nor the contract-holder may cause or permit the dwelling to become overcrowded within the meaning of Part 10 (overcrowding) of the Housing Act 1985 (c. 68).*

However, the restriction on the landlord and the contract-holder which states that they cannot cause or permit the dwelling to become overcrowded within the meaning of Part 10 (overcrowding) of the Housing Act 1985 is not included in Regulation 5 itself or elsewhere in the Regulations. The Explanatory Memorandum to the Regulations notes that the provision was redrafted to remove reference to 'overcrowding' within the meaning of Part 10 of the Housing Act 1985. Referring to a restriction within the Explanatory Notes which is no longer included in the Regulations may cause confusion for the reader. The Welsh Government is asked to confirm why this reference is included in the Explanatory Note when it has been removed from the Regulations.



**2. 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 15, 16 and 33 give the landlord, who may be a private landlord or a “community landlord”, which is defined to include a local authority, the right to enter the dwelling. Where 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 15, 16 and 33.

### **Welsh Government response**

A Welsh Government response is required.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**25 January 2022**

