

A stylized illustration of a green globe with various elements. The top half shows a blue circle with a white sailboat. The bottom half shows a blue circle with a white whale. The globe is surrounded by various buildings, trees, and a lighthouse. A banner across the middle contains the title.

HOUSING IN WALES FACTSHEET

THE RENTING HOMES (WALES) ACT 2016

1. Introduction

The Renting Homes (Wales) Act passed into law in January 2016 and will impact on virtually all existing Welsh tenancies. The Act will affect more than one million people who currently live in rented accommodation in Wales, and the housing professionals who work in the industry.

This new legislation aims to make it simpler and easier to rent a home, replacing the various and complex pieces of existing tenancy legislation with one clear legal framework.

The Act applies to all rented housing in Wales, with a limited number of exceptions, such as properties let under the Rent Act 1977.

This factsheet attempts to give an overview of the new legislation to members of the Chartered Institute of Housing; it does not constitute legal or professional advice.

2. Background

The Act takes forward the recommendations of the Law Commission's 2006 report 'Renting Homes' and was included as a commitment in the Homes for Wales white paper published in May 2012, receiving strong support from CIH Cymru. CIH Cymru has participated in the Renting Homes stakeholder group since 2012. The group was set up by Welsh Government to ensure a collaborative, multi-agency approach to developing the legislation.

3. Two new types of tenancy

The Act introduces two new 'occupation contracts' in Wales:

1. A secure contract modelled on the current secure tenancy issued by Local Authorities
2. A standard contract modelled on the current assured shorthold tenancy used mainly in the private rented sector

There are also variations for specific types of housing or circumstances including for 'supported standard contracts' for supported housing, 'introductory standard contracts' and demotion to a 'prohibited conduct standard'.

SECURE CONTRACTS

- Supported standard contract
- Introductory standard contracts
- Prohibited conduct standard contract

STANDARD CONTRACTS



4. What is included in the new Renting Homes Act?

Renting Homes will require all landlords, for the first time, to issue a written statement of the occupation contract to the tenant or licensee (termed 'contract-holders' in the Act). The statement will clearly set out the rights and responsibilities of landlords and contract-holders. Free model contracts will be made available to support this requirement. It is also envisaged suggested additional terms will be proposed that can be incorporated to cover items such as pets and break clauses.

The new Act:

- requires landlords to ensure the property is fit for human habitation at the time of occupation and for the duration of the tenancy contract. Fitness will be determined by reference to regulations which must be made under the Act. The fitness requirement applies to all secure contracts and periodic standard contracts, and all fixed term standard contracts made for a term of less than seven years
- tries to tackle retaliatory evictions, whereby tenants are at risk of eviction for complaining about the condition of a property. Under section 217 the court may refuse to make an order for possession where it is satisfied the landlord has made the claim to avoid complying with their obligations to ensure the home is fit for human habitation and keep it in repair
- allows the tenancy to continue for those tenants remaining in the property where a joint tenant leaves the contract, reducing the risk of homelessness for those who remain in the property
- ensures perpetrators of domestic abuse can be targeted for eviction to help prevent those experiencing domestic abuse from becoming homeless; supporting the aims of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 to provide preventive, protective and supportive mechanisms in the delivery of services
- simplifies current succession arrangements and creates a new succession right for carers
- enables landlords to repossess an abandoned property without needing a court order, which should mean that the property can be re-let more quickly, which is in everyone's interest
- introduces an 'anti-social behaviour and other prohibited conduct' clause where the contract-holder must not engage or threaten to engage in conduct capable of causing nuisance or annoyance, or allow a visitor to do so
- Removes the Ground 8 mandatory eviction route for housing associations (introduced in the 1988 Housing Act). The new secure contract will not include the equivalent of Ground 8, meaning landlords will no longer be able to gain a mandatory possession order for those with arrears of at least eight weeks. This ensures judicial oversight for secure social housing tenants facing eviction for rent arrears
- Introduces a temporary exclusion power for supported standard contracts, for which guidance will be issued to include review arrangements and a requirement to inform some statutory services such as the police or social services
- allows additional terms to be added to the contract, which should be negotiated and agreed between the landlord and the contract-holder



5. What's not included in the new Renting Homes Act

A number of changes introduced in the Bill did not make it through to the Act. These include:

- allowing 16 and 17 year olds to hold tenancies. The Act limits contract-holders to those aged over 18
- removing the 'six-month moratorium', which currently provides for a minimum occupation period under an assured shorthold tenancy (used mainly in the private rented sector). The Act

retains a six-month minimum occupation period by preventing a landlord from issuing the two-month notice to seek possession for four months from the commencement of the tenancy. So most private rented tenants with 'standard contracts' will have four months plus two months - a total of six months as a protected occupation period. However, Schedule 9 to the Act exempts some types of contract from this minimum, such as temporary housing and service tenancies

6. Summary of content of the Renting Homes Act

Part 1: Overview of Act

Schedule 1: Overview of fundamental provisions incorporated as terms of occupation contracts.

Part 2: Occupation contracts and landlords

Schedule 2: Exceptions to section 7

Part 3: Provisions applying to all occupation contracts

Schedule 3: Occupation contracts made with or adopted by community landlords which may be standard contracts.

Part 4: Condition of dwelling

Part 5: Provisions applying only to secure contracts

Schedule 4: Introductory standard contracts

Part 6: Provisions applying only to periodic standard contracts

Schedule 5: Deposit schemes: further provision

Part 7: Provisions applying only to fixed term standard contracts

Schedule 6: Reasonableness of withholding consent etc.

Part 8: Supported standard contracts

Schedule 7: Prohibited conduct standard contracts

Part 9: Termination etc. of occupation contracts

Schedule 8: Estate management grounds

Part 10: Miscellaneous

Schedule 9: Standard contracts to which limits in sections 175, 186 (2) and 196 (landlord's notice during first six months of occupation) do not apply

Part 11: Final provisions

Schedule 10: Orders for possession on discretionary grounds etc: reasonableness

Schedule 11: Suitable alternative accommodation

Schedule 12: Conversion of tenancies and licenses existing before commencement of chapter 3 of part 10

7. Implications for professionals

Timeframe

Implementation is not expected before autumn 2017.

It is expected that implementation will take the form of a 'big bang' roll-out, with current tenancies in Wales automatically converting to the appropriate new contract under the Act. Implementation will of course be subject to manifesto commitments as we enter the fifth term of the National Assembly for Wales in May 2016.

Regulations

Over twenty pieces of secondary legislation, mostly in the form of regulations, will need to be made before the Act can be implemented. These will be informed by the views of partner organisations, who will continue to attend the re-named Renting Homes Act (Wales) stakeholder group. Many of the regulations will also be subject to public consultation.

Members and representatives can continue to link to their membership and representative bodies including CIH Cymru, Community Housing Cymru, Residential Landlords Association, Welsh Tenants, Tai Pawb, Shelter Cymru, Council of Mortgage Lenders and Citizens Advice Bureau. Chartered Institute of Housing members should contact the CIH Cymru policy service to ensure their views are taken into account.

Communications

A communications strategy will be developed by Welsh Government to ensure citizens are aware of the forthcoming changes. It is important that housing professionals and organisations participate in and support the communications strategy, to ensure that tenants, landlords and colleagues are aware of these big changes coming into place.

8. Find out more

The Renting Homes (Wales) Act 2016: <http://www.legislation.gov.uk/anaw/2016/1/introduction/enacted>

Law Commission - Renting Homes: Final Report 2006: <https://www.gov.uk/government/publications/renting-homes-final-report>

Welsh Government information on the Act: www.wales.gov.uk/rentinghomes

For all learning and development enquiries about the new legislation please contact CIH Cymru's Housing Academy on 02920 765760 or email wales.training@cih.org



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