

The Renting Homes (Wales) Act 2016 (the Act) makes it simpler and easier to understand the new prescribed occupation contracts drafted.

For the purposes of the Act, the new occupation contracts will apply in Wales from 01 December 2022.

With a few exceptions, all existing tenancies and licences will be converted to an occupation contract in further detail later.

➤ **Occupation Contracts**

1. Definition of Occupation Contract

A tenancy or licence is an occupation contract if the following apply:

1. Rent or other consideration is payable by the tenant or licensee under it; and
2. It is made by or on behalf of a private landlord or letting agent; and
3. It gives the tenant or licensee the right to occupy the dwelling as a home.

This is a wider definition than the current definition of a residential tenancy or licence for private rented homes or tenancies.

Therefore, most existing tenancies and licences granted by an agent or landlord (HMO) lettings will be occupation contracts.

2. Exceptions to Occupation Contracts

Although they may be a tenancy or licence, the following are not occupation contracts:

1. Holiday Lettings
2. Accommodation for students
3. A tenancy or licence granted to a person who entered the dwelling as a trespasser; and
4. Accommodation for a person who is the landlord (the landlord must occupy the dwelling as his only or main residence).

Notice Condition
which states that the landlord gives a notice to the other party at the outset of an occupation contract.

3. Tenancies and Licences

the Act) and supporting legislation is intended to make it simpler and easier to understand the new prescribed occupation contracts drafted.

For the purposes of the Act, the new occupation contracts will apply in Wales from 01 December 2022.

With a few exceptions, all existing tenancies and licences in Wales automatically converted to an occupation contract in further detail later.

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2. It is made by or on behalf of a private landlord or letting agent; and
3. It gives the tenant or licensee the right to occupy the dwelling as a home.

This is a wider definition than the current definition of a residential tenancy or licence for private rented homes or tenancies which does not include second homes or tenancies.

Therefore, most existing tenancies, licences, student lettings (not holiday lettings), house in multiple occupation (HMO) lettings will be occupation contracts.

Although they may be a tenancy or licence, the following tenancies and licences are not occupation contracts, unless the 'Notice Condition' is met:

1. Holiday Lettings
2. Accommodation for students
3. A tenancy or licence granted to a person who entered the dwelling as a trespasser; and
4. Accommodation for a person who is the landlord (the landlord must occupy the dwelling as his only or main residence).

Notice Condition
which states that the landlord gives a notice to the other party at the outset of an occupation contract.

Occupation Contracts

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Some tenancies can become occupation contracts

not fall within the definition of occupation contract)

1. an individual (other than the person with whom the contract is being made) has the right to occupy the premises; the Notice Condition is met; or
2. no rent or other consideration is payable, and the Notice Condition is met.

4. Tenancies and occupation contracts

For occupation contracts

The Act provides for certain tenancies which will never be occupation contracts, the key ones being:

1. A long tenancy (a tenancy for a term exceeding 21 years);
2. A business tenancy (governed by the Landlord and Tenant Act 1954);
3. A farm business tenancy (governed by the Agricultural Holdings Act 1986);
4. A protected tenancy (Rent Act 1977).

5. Periodic and Fixed Term Occupation Contracts

Occupation Contracts

Below, we look at the differences between a periodic and a fixed term occupation contract.

A Periodic Standard Occupation Contract:

1. continues from week to week or month to month (typically from month to month or week to week);
2. can be terminated by either party by giving 1 month's notice (where this is a new tenancy) or 3 months' notice (where this is an existing tenancy which has been renewed for a period of two months or more). **From 1 June 2023, the Welsh Government has announced that the Act will be amended so that a six-month no-fault notice period applies to all periodic standard contracts from 1 June 2023;** and
3. can be terminated by either party by giving 1 month's notice.

A Fixed Term Standard Occupation Contract:

1. can be granted for a fixed term of up to 5 years;
2. cannot be terminated by either party by giving 1 month's notice (where this is a new tenancy) or 3 months' notice (where this is an existing tenancy which has been renewed for a period of two months or more). **From 1 June 2023, the Welsh Government has announced that the Act will be amended so that a six-month no-fault notice period applies to all periodic standard contracts from 1 June 2023;** and
3. the contract will become a periodic standard contract if the contract-holder remains in occupation at the end of the term. Landlords are only able to serve a s173 notice (no-fault possession notice) (where this is a new tenancy) or 3 months' notice (where this is an existing tenancy which has been renewed for a period of two months or more). **From 1 June 2023, the Welsh Government has announced that the Act will be amended so that a six-month no-fault notice period applies to all periodic standard contracts from 1 June 2023;** and
4. will become a periodic standard contract if the contract-holder remains in occupation at the end of the term.

➤ Written State

1. What is a written

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Occupation contracts are essentially a written statement of all the terms, which include the rights and obligations of the landlord and contract-holder, which apply to that specific contract.

Explanatory Information which must be included in the provisions of the contract.

2. Model written statements

The Welsh government has provided two model written statements.

For ease of reference, the following model written statements in the Guidance subfolder in our website are available:

- **Model written statement for a periodic standard occupation contract; and**
- **Model written statement for a fixed term standard occupation contract for a term of less than two years.**

1. Use of the model written statements

- a. You do not have to use the model written statements; however, they are a good starting point. These model written statements can be amended, and certain terms can be added or removed. Any changes to the model written statements must be made in writing and any changes must be agreed with the tenant. It is key that fundamental terms are preserved.

If a landlord or contract-holder can amend the model written statement which is incorrect or incomplete, the contract-holder can amend the model written statement on the terms of the contract. The landlord or contract-holder could also be liable for compensation.

- b. You can use the model written statements without making any changes to them and simply add additional terms to the model written statement. However, you may wish to add additional terms to the model written statement (where permitted by the Act).

- c. If you are dealing with a tenancy which converted to an occupation contract on 01 December 2020, you must use the special provisions which deal with information which is reflected in the written statement.

- d. **If you are deleting a term from the statement in accordance with the legislation, the term must be clearly shown. For example, a term which is being deleted must be struck through and any new text is shown in CAPITALS.**

Editorial changes to the wording of a term, provided it does not change the substance of the term, are permitted. For example, you can substitute the names of the landlord or contract-holder.

they cannot be made orally. A written statement of all the terms, which include the rights and obligations of the landlord and contract-holder, which apply to that specific contract. The 'Explanatory Information.'

Information prescribed by the Welsh Government in the model written statement, and which is a summary of the key terms of the contract.

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- Model written statement for a fixed term standard occupation contract for a term of less than two years.**

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The model contract includes footnotes. These do not form part of the terms of the contract but are included as a useful reference point.

2. Terms of the contract – Key elements

- a. **Key Terms** – details of the dwelling, the occupation date, the amount of rent, the deposit and where the dwelling is not to be occupied as a home and the names of the landlord and contract-holder.

There is no requirement for the contract-holder to sign. Contract-holders should be given a copy of the contract and a document to confirm their understanding and agreement to the terms of the contract.

- b. **Fundamental terms** – terms which are automatically included in an occupation contract.

- i. Those terms marked with **(F)** cannot be left out or changed, for example, the prohibition on illegal behaviour and other prohibited conduct and the requirement to comply with the terms of the scheme.
- ii. Those terms marked with **(+)** can be left out or changed, but only with the agreement of the contract-holder and only if the change benefits the contract-holder. They must not conflict with a fundamental term which cannot be varied.

- c. **Supplementary terms** – terms which are automatically included in an occupation contract and can be left out or changed by agreement of the parties. They can be left out or changed so as to conflict with a fundamental term. Any change to a supplementary term must also be fair under consumer protection law.

- d. **Additional terms** – terms which should be marked with **(A)** and can cover any matter agreed between the parties, as long as they do not conflict with a key term, fundamental term or supplementary term. It could cover pets at the dwelling, interest on late payments. Any additional term must be fair under consumer protection law.

➤ **Converted Contracts**

Most fixed term contracts in Wales automatically converted into a fixed term standard occupation contract on 01 December 2022, with the fixed term coming to an end on the same date as the original tenancy agreement.

Most periodic assured shorthold tenancies in Wales automatically converted into a periodic standard occupation contract on 01 December 2022.

Converted contracts – Key elements

For existing tenancies converted on or after 01 December 2022, landlords have six months to provide the written contract to the contract-holders (by 31 May 2023). A converted contract must be given to the contract-holder a written statement of the terms of the contract.

In order to produce a written statement, go through the existing written statement, and compare it with the new written statement of the contract.

1. The new written statement or licence will apply unless they conflict with the terms of the existing agreement.
2. Supplementary terms included unless they conflict with the terms of the existing agreement.
3. Any existing tenancy or licence will form part of the new written statement or licence (provided they do not conflict with any fundamental term).

Special Provisions

1. The Act and Regulations recognise that it would be unfair to replace certain provisions of the existing agreement, and therefore certain provisions of the existing agreement will continue to apply. For example, notice periods for possession in converted contracts which began before 01 December 2022, landlords must not give less than four months' notice under section 173, but such a notice must not be more than four months of the contract-holder's occupation. **However, the Welsh Government intends to amend the Act so that the standard notice period applies to converted periodic contracts from 1 December 2023.**
 - a. For an existing periodic tenancy which began before 01 December 2022, landlords are only required to give two months' notice to end the contract on or after the last day of the month. When the contract becomes periodic following 01 December 2022, six months' notice will be required.
 - b. For an existing periodic tenancy which began before 01 December 2022 and contains a break clause, a landlord will be able to exercise their break clause instead of six months' notice which is required for periodic contracts containing a landlord's break clause). The break clause will only apply until after the first four months of occupation.
2. There are provisions for landlords of converted contracts to provide information to the contract-holder which is discussed in further detail below.

➤ Provision of Information

Under the Act, a landlord must provide the contract-holder with a written statement of contract information about the contract.

If the contract-holder is a tenant, the written statement can be provided electronically.

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Failure to comply with a no-fault possession notice may result in a court order, and the landlord may also be liable to pay compensation. A landlord may also prohibit a landlord from serving a 'no-fault' possession notice.

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1. Provision of written statements for new occupation contracts:

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a. A landlord must provide a written statement of the contract before the end of the period of 14 days starting with the occupation date. This applies to new contracts from 01 May 2022.

Landlords a written statement of the contract before the end of the period of 14 days starting with the occupation date. This applies to new contracts from 01 May 2022.

b. A landlord must provide a written statement of the contract before the end of the period of 14 days starting with the occupation date. This applies to new contracts from 01 May 2022.

Contract-holder a written statement of the contract before the end of the period of 14 days starting with the occupation date. This applies to new contracts from 01 May 2022.

c. A written statement of the contract must be provided free of charge. If a further written statement is requested by the contract-holder, a landlord can charge a reasonable fee for providing a further statement.

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d. If a **further** written statement is requested, a landlord must provide this within 14 days, starting with the day on which the contract-holder pays the fee.

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Failure to comply

1. If a landlord fails to provide a written statement to the contract-holder, the contract-holder can apply to the court for a declaration as to the terms of the contract. A landlord could be liable to pay compensation, up to a maximum of two months' rent, from the date the written statement was provided to the contract-holder. A landlord may also be liable to pay interest on any compensation due. If the failure to provide the written statement was intentional, a landlord may be liable to pay more compensation. A landlord may also withhold rent to the value of the compensation.

Written statement to the contract-holder, the contract-holder can apply to the court for a declaration as to the terms of the contract. A landlord could be liable to pay compensation, up to a maximum of two months' rent, from the date the written statement was provided to the contract-holder. A landlord may also be liable to pay interest on any compensation due. If the failure to provide the written statement was intentional, a landlord may be liable to pay more compensation. A landlord may also withhold rent to the value of the compensation.

A landlord will be liable to pay compensation if they fail to provide a no-fault possession notice (s173 notice, s186 notice or exercise of the right to possession), for a period of six months from the day the written statement was provided to the contract-holder.

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2. If a landlord provides a **written statement** to the contract-holder, the contract-holder can apply to the court for a declaration as to the terms of the contract. A landlord could be liable to pay compensation, up to a maximum of two months' rent, from the date the written statement was provided to the contract-holder. A landlord may also be liable to pay interest on any compensation due. If the failure to provide the written statement was intentional, a landlord may be liable to pay more compensation. A landlord may also withhold rent to the value of the compensation.

Written statement or an **incorrect written statement** to the contract-holder, the contract-holder can apply to the court for a declaration as to the terms of the contract. A landlord could be liable to pay compensation, up to a maximum of two months' rent, from the date the written statement was provided to the contract-holder. A landlord may also be liable to pay interest on any compensation due. If the failure to provide the written statement was intentional, a landlord may be liable to pay more compensation. A landlord may also withhold rent to the value of the compensation.

2. Provision of written statements for converted contracts

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a. A landlord must provide a written statement of the contract within six months (by 31 May 2022) of the date on which the contract converts to an occupation contract.

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December 2022 for a new occupation contract or for a court order.

- b. **New contract** implementing a new contract with a written statement.

If the landlord is prevented from exercising a right to provide the written statement.

- c. If the landlord can apply for a court order within 14 days of receiving the written statement or if the consequences are the same as for a new contract.

3. Provision of Information

- a. A landlord must provide documents to the contract-holder. A landlord should provide a written statement.
- b. If the landlord's name or address changes, the landlord must notify the contract-holder of the change in writing within 14 days of the change.
- c. If the landlord's name or address changes, the contract-holder must be informed within 14 days, from the day on which the change occurs, by prescribed form [RHW4](#).

If a landlord fails to provide the written statement, the contract-holder may claim compensation of up to a maximum of two months' rent. A landlord will also be liable to pay interest on any compensation due.

A landlord will also be liable to pay interest on any compensation due if the contract-holder is claiming a no-fault possession notice (s173 notice, s186 notice or exercising a right to possession).

4. Provision of Information

- a. A landlord must provide documents to the contract-holder. A landlord should provide a written statement.

ences apply as failing to serve a written statement referred to above. The contract-holder cannot apply for a court order within a six month period from 01 December 2022.

If the contract-holder changes during the six month period, the contract-holder does not have to provide the new contract-holder with a written statement within the six month period.

If the contract-holder provides a written statement by 31 May 2023, they will be treated as having given a possession notice (s173 notice, s186 notice or s188 notice), for a period of six months from the day they provide the written statement to the contract-holder.

For or incomplete written statement, the contract-holder must provide a declaration as to the terms of the contract, within 14 days of receiving the written statement (even if this is before the 31 May 2023). The consequences of a correct or incomplete written statement are the same as referred to above.

Landlord for new occupation contracts:

The contract-holder must provide the landlord **notice of an address** for where to send documents, starting with the occupation date of the contract. The contract-holder must provide [RHW2](#) to inform contract-holders of an address; the contract-holder must provide the new landlord with the new landlord's name and address within 14 days, from the day on which the new landlord becomes the landlord. The new landlord should use prescribed form [RHW3](#) to provide the contract-holder with the identity of the landlord, and of an address for where to send documents. If the contract-holder's name or address changes, the contract-holder must be informed within 14 days, from the day on which the change occurs, by prescribed form [RHW4](#) of a change in their address.

If a landlord fails to provide the written statement, the contract-holder may claim compensation of up to a maximum of two months' rent. A landlord will also be liable to pay interest on any compensation due if the contract-holder is claiming a no-fault possession notice (s173 notice, s186 notice or exercising a right to possession).

A landlord will also be liable to pay interest on any compensation due if the contract-holder is claiming a no-fault possession notice (s173 notice, s186 notice or exercising a right to possession).

Landlord for converted contracts:

The contract-holder must provide the landlord **notice of an address** for where to send documents, starting with the occupation date of the contract. The contract-holder must provide [RHW2](#) to inform contract-holders of an address;

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- b. If the landlord is required to provide new occupation contracts, remain unchanged (i.e., within 14 days of the change of address occurring).

If a landlord fails to provide information about them to the contract-holders, the landlord may be liable to pay compensation to the contract-holder, up to a maximum of two months' rent. The landlord may also be liable to pay interest on any compensation due. The landlord may also withhold rent to the value of the compensation.

A landlord will also be liable to pay compensation for failing to give a no-fault possession notice (s173 notice, s186 notice), where these obligations are outstanding.

5. Provision of Information and Variation to the contract

If a variation is agreed, the landlord must provide a written copy of the new term or condition of the contract as varied, within 14 days of the change being agreed. The landlord must not charge a fee to provide a written statement of the variation.

If a landlord fails to provide a written statement of the variation, they may be liable to pay compensation, up to a maximum of two months' rent. The landlord may also be liable to pay interest on any compensation due.

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