

Overview of the Renting Homes (Wales) Act 2016 and supporting legislation

The Renting Homes (Wales) Act 2016 (the 'Act') and supporting legislation came into force on 01 December 2022. This Act fundamentally changed the system for letting residential property in Wales.

The Act simplifies the system for letting residential property (as tenants) and landlords' rights and obligations.

The Act covers both residential and commercial property. This information provides an overview of the key provisions to assist your understanding how the legislation affects them.

1. What is an Occupation Contract?

An occupation contract is a contract which set out the rights and responsibilities of the parties. Occupation contracts include assured shorthold tenancies and licences to occupy. They are not tenancies. The parties to the occupation contract are known as the contract-holder. The property is known as the dwelling. There are two types of occupation contracts: 1) Standard; and 2) Secure.

Secure occupation contracts are for use by community landlords; we focus here on standard occupation contracts entered by private landlords.

Almost all tenancies are occupation contracts where:

- Rent is payable (or is to be payable)
- The contract is granted to an individual (who must be 18 or over)
- The individual has the right to occupy the dwelling as a home (this does not have to be the contract-holder's only or principal home)

There is no limit on the amount of rent payable over £100,000.

There are exceptions to the above. These are covered in further detail in our **Guidance on Standard Occupation Contracts**.

2. What is a Contract Holder?

The Act has provided a new term to replace "Tenant" in respect of residential lettings in Wales and applies to all occupation contracts.

A contract-holder is an individual (who must be 18 or over) who enters into an occupation contract with a landlord to occupy a dwelling as a home.

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Under the Act, the distinction between tenants and licensees, and so they are collectively known as tenants under the Act.

3. Overview of Standard Occupation Contracts

Fixed Term vs Periodic

Standard occupation contracts can be for a fixed term (an agreed period of either months or years) or periodic (week or month to month). A fixed term contract will become a periodic contract if the contract-holder remains in occupation. There are some key differences between the two which are covered in further detail in our **Guidance on Standard Occupation Contracts**.

Written Statements

Occupation contracts must contain certain terms. A landlord must give the contract-holder a written statement setting out the terms of the occupation contract within 14 days of the date the contract-holder is entitled to begin occupying the dwelling ('the occupation date').

If the contract is assigned, the landlord must give the new contract-holder a written statement within 14 days of the date the landlord becomes aware of the change.

Landlords must use standard occupation contracts entered into on or after 01 December 2023. Licences and licences automatically converted to occupation contracts on 01 May 2023, and landlords must provide a written statement to the contract-holder by 01 May 2023).

If the landlord fails to provide a written statement within the time frames specified, they face financial penalties (up to £1,000 plus interest, more if the failure was intentional) and restrictions on their ability to let the dwelling.

The occupation contract must be provided until the contract-holder has moved in and the written statement has been provided to the contract-holder.

Written statements can be sent electronically or, if agreed by the contract-holder, these can be sent by hand.

Inventory

As a supplementary requirement, a landlord is required to provide a contract-holder with an inventory in writing within 14 days of the occupation date. The inventory must set out the dwelling's condition as at the occupation date and must include all fixtures and fittings and must describe their condition. Repairs and improvements can be made to the inventory if the contract-holder provides consent.

4. Terms of an Occupation Contract

The terms of a standard occupation contract are broken down into four categories:

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a) **Key matters** – information on the consideration and the term is for, and the dwelling.

...lling, occupation date, amount of rent or other...
...of the contract is periodic or a fixed term, how long...
...the contract-holder is not entitled to occupy the

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b) **Fundamental Terms** – essential rights and obligations of landlords and contract-holders and the contract-holder cannot be modified the parties, and the

...essential rights and obligations of landlords and...
...on the landlord to provide a written statement to...
...terminating the contract. Some fundamental terms...
...ns can be omitted or modified if agreed between...
...holder's position.

c) **Supplementary Terms** – matters to make the occupation contract work, access for repair etc save where the fundamental term.

...al matters to make the occupation contract work,...
...mitted or modified, if agreed between the parties,...
...n would make that term incompatible with a

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d) **Additional Terms** – (pets) provided they term. These terms

...dealt with elsewhere (for example the keeping of...
...y matter, a fundamental term, or a supplementary...
...onsumer protection law.

As well as the above information.'

...atement must also contain certain 'explanatory

The Welsh Government term standard occupation and supplementary

...del written statements for both periodic and fixed...
...odel statements incorporate all the fundamental...
...d (without modification).

5. **Variation of Contract**

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The contract may be further regulations

...agreement between the parties or as a result of...
...ment or regulations made by the Welsh Ministers.

Certain *fundamental* other prohibited conditions

...d; possession claims, anti-social behaviour and...
...e deposit scheme.

Other fundamental change will be of no cannot be varied.

...ey improve the contract-holder's position, but the...
...rm is incompatible with a fundamental term which

Supplementary terms conflict with a fundamental fair under consumer

...reement with the parties as long as they do not...
...ot be varied. Any variation of these terms must be

If a variation is agreed of the new term or change being agreed

...contract, the landlord must provide a written copy...
...statement of this contract, within 14 days of the

6. **Converting an existing**

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...dard occupation contract

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When an existing tenancy is converted into a standard occupation contract, the existing terms of the tenancy apply to the contract with the fundamental terms. Supplementary terms are included unless they are inconsistent with the fundamental terms of the existing tenancy. Any other terms in the contract are treated as additional terms.

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The Act recognises that the terms of the existing tenancy may be different from the terms of the standard occupation contract. The Act allows the parties to agree to replace certain provisions which were agreed in the existing tenancy. However, certain provisions must not be replaced (for example, the notice periods for periodic tenancies must be at least two months). Special rules apply under the Act for converted tenancies. These shorter notice periods must be mentioned in the written statement of terms. The statement should also refer to the different times for termination obligations and also the information provisions for converted contracts.

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7. Joint Contract-holders

Joint contract-holders

Parties can be added to an occupation contract. The new contract-holder will be added to the contract from the day on which they become a joint contract-holder. The original contract-holder will no longer be liable under the contract after a certain period after they cease to be a party to the contract.

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Succession

On the death of a contract-holder, someone who qualifies as a successor will take over the occupation contract. There are two categories of successor: 1) priority successors and 2) reserve successors. A priority successor is the spouse/civil partner of the deceased or someone who lived with the deceased in the dwelling as their principal home. There are two types of reserve successor: 1) a family member (not a priority successor) who lived with the deceased in the dwelling as their principal home in the last 12 months preceding the death of the contract-holder, and 2) a carer who, in the last 12 months preceding the death of the contract-holder, cared for the contract-holder in the dwelling as their principal home (and has no other property to occupy at the time of the contract-holder's death).

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8. Termination of a Standard Occupation Contract

1. Termination by the contract-holder

A contract-holder can terminate a standard occupation contract by giving notice to the landlord. A contract-holder cannot be evicted from the dwelling without a court order unless the contract-holder abandons the dwelling.

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No fault evictions

A no fault eviction can only be served on a contract-holder if the standard occupation contract has become a periodic tenancy. A contract-holder cannot be served during the term of a fixed term contract. A contract-holder will have to wait for the occupation contract to become periodic at the end of the fixed term before they can serve the required 6 months' notice.

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Under a periodic standard contract, the minimum notice period that must be given is 6 months. A landlord must give a possession notice until 6 months after the contract starts. This is a minimum 12-month contract.

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A landlord will not be required to give a possession notice until 6 months after the expiry of any previous s173 notice.

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A s173 notice will not be valid if the landlord has not complied with its obligations set out below.

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The 6 months' notice period for periodic standard occupation contracts which begin on or after 01 December 2022.

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Converted contracts to periodic standard contracts
the Act

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For an existing periodic standard occupation contract entered into before 01 December 2022 and converted to an occupation contract under the Act, a landlord must not give a notice under s173 until at least 4 months of the contract-holder's occupation. **However, please note that the Government intends to amend the Act so that a six-month no-fault notice will be required for converted periodic standard contracts from 1 June 2023.**

For an existing periodic standard occupation contract entered into before 01 December 2022 and converted to an occupation contract under the Act, a landlord must not give a notice under s173 until at least 4 months of the contract-holder's occupation. **However, please note that the Government intends to amend the Act so that a six-month no-fault notice will be required for converted periodic standard contracts from 1 June 2023.**

For the avoidance of doubt, a periodic standard tenancy becomes periodic after 01 December 2022, and a landlord must give a six months' notice under s173.

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For an existing fixed term contract entered into before 01 December 2022, landlords will be able to serve a possession notice at the end of the term. Landlords will only be required to give a six months' notice under s173 if the contract is converted to a periodic standard contract after 01 December 2022.

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Eviction notices served under the Act

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A section 21 notice served under the Act after 01 December 2022 remains valid and will follow the possession procedure set out in the Act from 01 January 2022 onwards. However, the section 21 notice will only be valid for 2 months from 01 December 2022 and so landlords will need to issue proceedings before the expiry of the notice.

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A section 8 notice served under the Act after 01 December 2022 remains valid and will follow the possession procedure set out in the Act from 01 January 2022 onwards. However, the section 8 notice will only be valid for 6 months from 01 December 2022 (unless the section 8 notice expires before this) and so landlords will need to issue proceedings before the expiry of the notice.

A section 8 notice served under the Act after 01 December 2022 remains valid and will follow the possession procedure set out in the Act from 01 January 2022 onwards. However, the section 8 notice will only be valid for 6 months from 01 December 2022 (unless the section 8 notice expires before this) and so landlords will need to issue proceedings before the expiry of the notice.

Prescribed forms of notices under the Act can be found [here](#).

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Restrictions on service of possession notices or break notices

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A landlord will not be required to give a possession notice under s173 if they have failed to comply with their statutory obligations under the Act.

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- 1. failed to provide the tenant with a written statement of the occupation contract;

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2. failed to provide the contract-holder with an address to which the contract-holder may send documents that are required to be sent;

3. not returned any sums deposited in accordance with the requirements relating to authorised deposit schemes;

4. breached the requirements of the Landlord and Tenant (Amendment) (Wales) Act 2019;

5. not provided an Energy Performance Certificate ("EPC");

6. failed to meet the requirements of the Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022. The requirements are:

a) the landlord has provided and maintained, in working order, smoke alarms and, where required, carbon monoxide alarms;

b) the landlord has provided a written electrical condition report, or to give the contract-holder access to a qualified person to inspect and certify other electrical work; and

c) the landlord has complied with the Gas Safety Regulations 1998 by providing to the contract-holder a gas safety certificate.

7. An HMO dwelling is not licensed;

8. The landlord is not licensed under the Rent Smart Wales scheme.

Retaliatory eviction

A landlord will not be liable for a possession order on the contract-holder if they have served a possession notice on the contract-holder for a breach of the contract and the contract-holder has carried out the repairs or works required to be carried out. If a landlord applies to court for a possession order based on a breach of the contract and the contract-holder has carried out the repairs or works required to be carried out, the landlord cannot serve a further possession notice on the contract-holder within 6 months later.

Breach of contract

In order for the court to grant a possession order for breach of contract, a contract-holder must have broken the contract (serious arrears of rent (if the rent is paid monthly, at least two months' rent in arrears), anti-social behaviour; or failing to take proper care of the dwelling) and the court must be satisfied that it is reasonable to grant a possession order. The court will determine whether it is reasonable to grant a possession order.

For grounds of anti-social behaviour, the landlord can make a possession claim on that ground without serving a possession notice. For other prohibited conduct, the landlord can make a possession claim one month after the breach on that ground has been served. The court will determine whether it is reasonable to grant a possession order.

Estate management

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A court can make an order for possession of the dwelling based on one of the following grounds (demolition or reconstruction, special accommodation for the contract-holder, and other estate management reasons). Suitable alternative accommodation must be available, and it is reasonable to evict the contract-holder. The landlord can not be served.

where the landlord needs to move the contract-holder on 'management grounds'. This includes building works, demolition or reconstruction, special accommodation grounds (suitability of the dwelling for the contract-holder), and other estate management reasons. Suitable alternative accommodation must be available, and it is reasonable to evict the contract-holder. The landlord can not be served one month after a possession notice has been served.

Break Clauses

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A landlord will only be able to break the contract in a fixed term contract where there is a fixed term and the landlord must give six months' notice and must not serve the notice within the last six months of the contract. In order for the break notice to be valid, the landlord must comply with their statutory obligations listed above.

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Abandonment

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A landlord will be able to terminate the contract if the contract-holder has abandoned the dwelling without giving notice to the contract-holder. If they do not respond within four weeks of the landlord's inquiries to satisfy the landlord's requirements, the landlord must terminate the contract. The landlord must also carry out the necessary repairs to the dwelling which has been abandoned by the contract-holder. The landlord must give notice to the contract-holder which will end the contract.

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2. Termination by the contract-holder

The parties can agree to terminate the contract.

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A fixed term contract can be terminated by the contract-holder's break clause giving the landlord not less than four weeks' notice. In a periodic tenancy contract, the contract-holder can terminate the contract serving the landlord with the contract-holder's notice.

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If the landlord commits a breach of the contract (such as fraudulent misrepresentation by the landlord) and the contract-holder takes possession of the dwelling because of that breach, this will result in the contract being terminated.

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The contract-holder can terminate the contract at any time before they move in or before they receive the written notice from the landlord by giving notice to the landlord.

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9. **Deposit Scheme for Wales**

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If a deposit is paid by the contract-holder (or a third party on the contract-holder's behalf), it must be protected with an authorised deposit scheme.

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Landlords have 30 days to register the deposit with the scheme and the contract-holder must provide the necessary information to the scheme.

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If landlords do not provide the necessary information to the scheme in accordance with the Act, the contract-holder (or any person who has paid the deposit on their behalf) can apply to court. The court may order the landlord to pay the contract-holder the amount of the deposit.

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A landlord will not be liable for breach of a fixed term contract under the Act, if:

- a) The initial requirements of the authorised deposit scheme have not been met; or
- b) The requirements of the authorised deposit scheme have not been provided to the contract-holder; or
- c) The deposit has not been held in accordance with an authorised deposit scheme,

unless the deposit (or any person who paid the deposit on their behalf) either has been repaid, or the county court has made an order, or an application for an order, has been made.

These rules apply to contracts entered into before 01 December 2022. Existing deposits will not need to be re-served.

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173 notice, or a section 186 notice (to end certain tenancies), or give notice under a landlord’s break clause

authorised deposit scheme have not been met; or been provided to the contract-holder; or in accordance with an authorised deposit scheme,

contract-holder (or any person who paid the deposit on their behalf) either has been repaid, or the county court has made an order, or the parties.

before 01 December 2022. Existing deposits will not need to be re-served.

10. Landlord’s Repair Obligations

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The Landlord must keep in repair and proper working order the **structure and exterior of the dwelling** (including drains, gutters, and external walls), and **service installations** in the dwelling.

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A “service installation” means an installation for the supply of water, gas, or electricity, for sanitation, for space heating, or for air conditioning.

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If the dwelling forms part of a building, the landlord’s obligation extends to the structure and exterior of the building, (only where the contract-holder’s enjoyment of the dwelling and or parts is affected).

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The standard of repair is that of a reasonable person having regard to the age and character of the dwelling, and that the dwelling is likely to be available for occupation as a home’.

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The contract-holder must notify the landlord of any defect, damage, or disrepair which they believe needs to be repaired. The landlord must carry out the necessary works or repairs within a reasonable time after the day on which the landlord becomes aware that they are necessary.

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11. Fitness for Human Habitation

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Landlords have an obligation under a periodic standard contract, or a fixed term standard contract (made for a period of more than ten years) to ensure the dwelling is fit for human habitation through the Act. If the dwelling forms part of a building, the landlord’s obligation extends to the structure and exterior of the building and the common parts.

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The [Renting Homes \(Wales\) Regulations 2022](#) (as amended) set out the ‘prescribed circumstances’ which must be considered to determine whether a dwelling is fit for human habitation.

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These broadly reflect the 'circumstances' set out in the Housing Health and Safety Rating System (HHSRS) 2006 ('HHSRS'), as prescribed under the Housing Act 2004.

The 2022 regulations set out **specific requirements** which landlords must meet to ensure a dwelling is fit for human habitation. Landlord's must ensure:

• a smoke alarm is installed in each room. It must be connected to a central alarm system connected to the electricity supply.

• a smoke alarm is in good working order and present on each floor of the dwelling. It must be connected to a central alarm system and inter-linked with all other smoke alarms.

• a carbon monoxide alarm is installed in any room containing a solid fuel burning combustion appliance.

• a carbon monoxide alarm is in good working order and present in any room containing a solid fuel burning combustion appliance or a solid fuel burning combustion appliance.

• electrical service installations are inspected at intervals of 5 years (or more frequently if recommended), and a written report is provided to the contract-holder.

These specific requirements apply to contracts entered into on or after 01 December 2022. For existing contracts there is a twelve-month grace period to undertake the installation of smoke alarms. This grace period does not apply to carbon monoxide alarms which must be in place by 01 December 2022.

If an existing contract entered into on or after 01 December 2022) is a fixed term contract, it will become periodic on 01 December 2023 and all the requirements will apply from the date it becomes periodic.

There are various ways in which a landlord may be liable to a contract-holder for breach of these obligations including a court order, restrictions on the landlord's Rent Smart Wales licence. A landlord may be liable to a contract-holder for any personal injury claims caused as a result of the landlord's failure to comply with these obligations.

12. Limits on the Landlord's Obligations under the Act

12.1. In relation to human habitation only

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The obligation to ensure a dwelling is fit for human habitation throughout the occupation of the dwelling is limited to the obligation to comply with this obligation at reasonable expense.

12.2. In relation to structural repairs and maintenance only

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If the dwelling is a flat, the landlord's obligation extends to the structure and exterior of the building, but only where the contract-holder's use of the common parts is affected.

12.3. Repairs and maintenance in relation to human habitation

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In respect of both, the landlord is required to carry out repairs or ensure the dwelling is fit for human habitation.

1. If the contract requires the tenant to remove the item requiring repair from the dwelling;
2. Where the condition of the building has been damaged by a 'relevant cause.' Relevant causes include fire, flood, or other inevitable accident;
3. The Landlord is required to ensure the dwelling is unfit for human habitation or in disrepair due to an accident caused by the tenant, a tenant's contract-holder or a permitted occupier (including 'lack of care'). 'Landlord' includes the tenant and any person who is required to take proper care of the dwelling.
4. Until the landlord has carried out the necessary works or repairs, the tenant has an obligation to notify the landlord of any defect, damage, or loss. The responsibility for the cost of the works or repairs is the landlord's responsibility.

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