

1) Background

Under the Renting Homes (Fitness for Human Habitation) Regulations 2022, landlords and letting agents in Wales are under new obligations to keep their dwellings fit for human habitation. ***The Renting Homes (Fitness for Human Habitation) Regulations 2022*** (the Regulations) provide details of the factors that must be met when considering whether a dwelling is fit for human habitation. The Regulations also set out the requirements which must be met if a dwelling is to be considered fit.

Landlords and letting agents must also comply with existing legislation, including the Landlord and Tenant (Amendment) (Wales) Regulations 2006 and the Gas Safety (Installation and Use) Regulations 2008.

2) Which contracts are covered?

Landlords of periodic tenancies and fixed term standard occupation contracts made for a period of more than seven years must comply with their repairing obligations, and the obligation to ensure the dwelling is fit for human habitation, under the Renting Homes (Fitness for Human Habitation) Act 2016, from the occupation date and for the duration of the contract.

3) Repair

The Landlord must ensure that the dwelling is kept in repair and that the following are maintained:

1. keep in repair and maintain the structure and exterior of the building (including drains, gutters and external pipes)
2. keep in repair and maintain the **service installations** in the dwelling.

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

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

The standard of repair required is that of a *reasonable person having regard to the age and character of the dwelling, and the nature of the accommodation as a home*.

Repairs must be done in a timely manner.

4) Fitness for Human Habitation

Landlords must ensure that the dwelling is fit for human habitation throughout the occupation of the dwelling.

If the dwelling forms part of a building, the Landlord’s obligation extends to the structure and exterior of the building (including drains, gutters and external pipes).

There are effective remedies available to tenants if a dwelling is not fit for human habitation:

and supporting legislation (which came into force on 01 December 2022). Landlords and letting agents in Wales are under new obligations to ensure that the dwelling is fit for human habitation. ***The Renting Homes (Fitness for Human Habitation) Regulations 2022*** (the Regulations) provide details of the factors that must be met when considering whether a dwelling is fit for human habitation. The Regulations also set out the requirements which must be met if a dwelling is to be considered fit.

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- 1) The 29 'Matters and Circumstances' which must be considered when determining whether a dwelling is fit for human habitation; and
- 2) Requirements that landlords must comply with in order for a dwelling to be fit for human habitation.

1. Matters and Circumstances

The 29 matters and circumstances which are associated with a risk of harm as set out in the Regulations are:

- 1) Damp, mould and fungi growth
- 2) Cold
- 3) Heat
- 4) Asbestos and asbestos fibres
- 5) Biocides
- 6) Carbon monoxide and carbon products
- 7) Lead
- 8) Radiation
- 9) Uncombustible materials
- 10) Volatile organic compounds
- 11) Crowding and overcrowding
- 12) Entry by intruders
- 13) Lighting
- 14) Noise
- 15) Domestic hygiene
- 16) Food Safety and Hygiene
- 17) Personal hygiene and drainage
- 18) Water supply
- 19) Falls associated with stairs
- 20) Falling on stairs
- 21) Falling on steps
- 22) Falling between floors
- 23) Electrical hazards
- 24) Fire
- 25) Flames, hot surfaces and scalding
- 26) Collision and falling objects
- 27) Explosions and fire
- 28) Position and stability of buildings etc.
- 29) Structural condition of buildings and parts

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Landlords should take steps to prevent the dwelling becoming unfit for human habitation by preventing the above 'Matters and Circumstances' from arising to a significant extent in a dwelling used as a private residential accommodation.

The Welsh Government has published [Guidance](#) (Government Guidance) which looks at the above 'Matters and Circumstances' in more detail. The guidance also looks at the potential causes and what private landlords can take to prevent these from occurring. It also considers what landlords should do for flats and Houses in Multiple Occupation which may be at greater risk.

2. Specific requirements

Landlords are required to ensure that, throughout the period of occupation, to comply with the following requirements (to ensure a dwelling is fit for human habitation. If the

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Requirements a
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the dwelling is deemed to be treated as unfit for
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1) a smoke alar
of the dwelli
smoke alarm
of the types

and proper working order and present on each floor
to the electrical supply and linked to every other
connected to the electrical supply. Further details
can be found in the Government Guidance;

2) a carbon mo
any room co
burning com

in repair and proper working order and present in
e, an oil-fired combustion appliance or a solid fuel

3) electrical se
years (or
recommend
the contract
electrician o
be met, the
to below):

be inspected by a qualified person at intervals of 5
ous electrical inspection has made such a
condition report (an 'EICR') must be provided to
of the standards to be complied with by a qualified
nment Guidance. In order for this Requirement to
omplied with (subject to the grace period referred

a. Fron
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the current EICR must be given to the contract-
of the occupation date;

b. If inv
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to a
withi

ditional work is carried out on, or in relation to, an
in the dwelling, after the date of the EICR referred
r must receive written confirmation of this work
occupation date;

c. Whe
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carried out, the new EICR must be provided to the
n days of an inspection date;

d. If inv
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days

ditional work is carried out on, or in relation to, an
in the dwelling, after the occupation date, the
e written confirmation of this work within fourteen
confirmation of the work.

All three Requirem

apply from the oc
2022.

contract entered into on or after 01 December

Existing contracts
2022) have a two
electrical safety te
apply to the Requ
by 01 December 2

ed to occupation contracts on 01 December
d to undertake the Requirements relating to
ns. This twelve-month grace period does not
on monoxide alarms, which must be in place

If an existing cont
2022) is a fixed te
twelve-month gra
apply from the da
apply.

ted to an occupation contract on 01 December
ember 2022 and becomes periodic during the
01 December 2023), all the Requirements will
s periodic and the grace period will no longer

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5) **Limits on Landlord's Obligations**

5.1 **In respect of the obligation to provide a dwelling fit for human habitation only**

The obligation to provide a dwelling fit for human habitation throughout the occupation of the dwelling by the contract-holder. The landlord cannot comply with this obligation at a reasonable time if the dwelling is unfit for human habitation at the time of the contract.

5.2 **In respect of the obligation to provide a dwelling fit for human habitation only**

If the dwelling is unfit for human habitation, the landlord's obligation extends to the structure and exterior of the dwelling and common parts, but only where the contract-holder's enjoyment of the dwelling or the ability to use the common parts is affected.

5.3 **Repair AND Maintenance Obligations**

In respect of the obligation to provide a dwelling fit for human habitation, the contract-holder is required to carry out repairs or ensure the dwelling is fit for human habitation.

1. If the contract-holder is required to carry out repairs, they must do so as soon as possible and must not remove the item requiring repair from the dwelling.
2. Where the contract-holder is required to carry out repairs, the contract-holder is not liable if the part of the building has been damaged by a fire, storm, flood or other inevitable accident.
3. The Landlord's obligation to provide a dwelling fit for human habitation is not affected if the dwelling is unfit for human habitation, or in disrepair, as a result of the contract-holder or a permitted occupier of the dwelling. 'Permitted occupier' means a person who is a 'permitted occupier of care,' is a failure to take proper care of the dwelling.
4. Until the contract-holder is notified of the need to carry out works or repairs are necessary, the contract-holder has an obligation to notify the landlord of any defect, or defects, which they believe is the landlord's responsibility.

6) **Consequences of Breach**

- 1) **Court Order for Injunction and/or Compensation** - If a dispute arises between the contract-holder and the landlord as to whether the dwelling is unfit for human habitation, the contract-holder will be able to seek an order from the court. The court may require the landlord to remedy the problem and the landlord could be liable for compensation for any loss or damage caused.
- 2) **Serving a section 173 notice or exercising a landlord's break clause (no-fault notice)** - The contract-holder will be able to serve a section 173 notice, a section 186 notice or exercise a break clause, if they have failed to meet the Requirements.
- 3) **Rent Smart Wales** - A landlord who lets a dwelling which is not fit for human habitation may have their licence with Rent Smart Wales revoked as a consequence of breaching the Landlord's Code of Practice.
- 4) **Contract-holder's right to withhold rent** - A contract-holder is entitled to withhold rent for any period where the dwelling is unfit for human habitation which includes failing to meet the Requirements.

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5) **Retaliatory** refused on complained serve a no-6 months.

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d applies to court for a possession claim but it is 'retaliatory eviction' (where a contract-holder has the dwelling), the landlord would then be unable to or exercise a landlord's break clause) for another