



LEGAL

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REFERENCE

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# RESIDENTIAL TENANCIES IN WALES – ALL CHANGE



## 1. INTRODUCTION

Residential tenancies in Wales are about to be given a radical overhaul from 15<sup>th</sup> July 2022. The Renting Homes (Wales) Act 2016 (The Act) is coming into force. Since its enactment there have been some amendments brought in by the Renting Homes (Wales) Amendment Act 2021 and further Regulations in 2022. The CLA is publishing guidance notes to assist members with the information necessary to adapt. This series of guidance notes is up to date at the time of publication, but they may need to be amended as the Welsh Government issues further regulations and guidance. Further advice is available on request from the CLA Cymru office.

The Government's [website](#) provides templates for the new contracts to replace existing ones and for the setting up of new agreements from the date of implementation or before. In particular there is [guidance](#) on how to convert an old style tenancy to a new one. Attention is needed when looking at what was an assured tenancy. Advice should be sought as to the type of contract this will be from July.

Terminology will change and there will be some fundamental differences from the old regime of assured and assured shorthold tenancies. Much of the focus is to consolidate and use language that is accessible to all.

The day The Act comes into force is referred to as the 'appointed day'. It is from this date on the 15<sup>th</sup> July 2022 in Wales that there will no longer be any assured or assured shorthold tenancies and these old tenancies will be converted to occupation contracts to be treated as if

they were made on the 15<sup>th</sup> July. The Act will have retrospective effect. There will be situations that need to be assessed in more detail.

### Jurisdiction

For the purposes of this Act ‘dwelling’ means a dwelling wholly in Wales and includes any land occupied together with the dwelling unless the land is agricultural land exceeding 0.809 hectares (2 acres or more). It does not include any structure or vehicle which is capable of being moved from one place to another.

In these guidance notes unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

## 2. TRANSITION

For new rentals after the implementation date, the written statement must be issued within 14 days of occupation under the contract. Existing tenancy agreements will ‘convert’ to the relevant occupation contract on the day of implementation, and landlords have a maximum of **six** months to issue a written statement of the converted occupation contract to their contract-holders. The written statement can be issued in hardcopy or, if the contract-holder agrees, electronically.

The starting point is that the residential tenancies concerned will be occupation contracts. It is important in regard to getting familiar with the changes to embrace the new terms.

What will this mean for members with existing assured shorthold tenancies in place prior to 15<sup>th</sup> July 2022? All relevant existing tenancies will be converted on the 15<sup>th</sup> July 2022 and thus live notices served prior to that may no longer be valid save for variation of rent.

Assured Shorthold Tenancies which existed prior to July 15<sup>th</sup> 2022 will be terminable with a minimum of 2 months’ notice rather than the 6 months under the new Act. Different rules apply to those that were Assured Tenancies.

There will be a year into which to meet the enhanced Fitness for Human Habitation standards but from 15<sup>th</sup> July 2022 **carbon monoxide alarms must be fitted**.

**A key matter is the occupation date -the occupation date of a converted contract is the date upon which the contract holder was originally entitled to occupy the dwelling under the previous AST.**

## 3. GLOSSARY

**Standard residential tenancies or licences will become.....Occupation contracts**

These are tenancies made between a landlord and an individual and confers on the individual the right to occupy a dwelling as a home. It can be made between a landlord and two or more persons at least one of whom is an individual and they are given the right to occupy the dwelling as a home.

**Tenant or licensee will become.....Contract holder**

An individual cannot be a contract holder if he or she is not yet 18.

**Standard contract**

This can be either a fixed term contract or a periodic contract (as per an assured shorthold tenancy). This will be the default contract for a private landlord.

**Secure contract**

This is a periodic contract (more akin to an assured tenancy). This is for use by community landlords generally but can be granted by a private landlord with a notice stating this.

**Fundamental provisions**

There will be some fundamental provisions (terms of the contract) that are incorporated into every occupation contract. There are others that if the parties are in agreement can be excluded from their contract. This will all need to be clear in the written agreement.

**4. TYPES OF TENANCY NOT CONVERTED**

It is important to be aware that if you have tenancies under the headings below they will not be converted to occupation contracts. This list identifies the tenancies that our members are responsible for but is not exhaustive of all the exceptions:-

- i) A tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies
- ii) A protected occupancy or a statutory tenancy under the Rent (Agriculture) Act 1976
- iii) A protected tenancy or a statutory tenancy under the Rent Act 1977
- iv) A farm business tenancy under the Agricultural Tenancies Act 1995
- v) A long tenancy (fixed for a fixed term of more than 21 years)
- vi) A tenancy or licence which relates to armed forces accommodation
- vii) A tenancy or licence which relates to accommodation provided by a community landlord or a registered charity.

**5. WHEN AND HOW CAN A STANDARD OCCUPATION CONTRACT BE TERMINATED BY THE LANDLORD?**

Where the contract-holder has breached the occupation contract the minimum notice period that must be given is one month. This notice period can be shorter where it relates to a breach of the anti-social behaviour or the serious rent arrears terms.

Where a 'no fault' notice is issued, the minimum notice period that must be given is six months. A landlord will not be able to give such a notice until 6 months after the contract starts. For conversion tenancies the minimum notice period is 2 months and not before the first 4 months of the tenancy has expired.

In most but not all circumstances a landlord will not be able to give a notice to give up possession unless they have complied with certain obligations, including registration and licensing with Rent Smart Wales and deposit protection rules.

Landlord break clauses will only be able to be incorporated into a fixed term occupation contract if the contract has a fixed term of 2 years or more. A landlord will not be able to exercise a break clause within the first 18 months of occupation.

A service occupancy (where the occupant is required to live in the premises for the better performance of their duties) requires 2 months' notice (Schedule 8A to The Act).

## 6. WHEN AND HOW CAN A TENANT TERMINATE THE CONTRACT?

The tenant in a monthly periodic is only required to give a minimum of 4 weeks' notice and if in a fixed term cannot end the contract until it expires or a break clause allows them to.

## 7. WHAT ARE THE OBLIGATIONS IN RESPECT OF THE CONDITIONS OF THE PROPERTY AND THE MAINTENANCE?

The landlord must ensure that properties are [fit for human habitation](#) (FFHH) see GN09-22. This will include, for instance, electrical safety testing and ensuring working smoke alarms and carbon monoxide detectors are fitted. In addition, rent will not be payable for any period during which the dwelling is not fit for human habitation.

A landlord must keep the structure and exterior of the property in repair and keep installations for the supply of water, gas or electricity, for sanitation, for space heating, and hot water in repair and proper working order as per the requirements set out in the Landlord and Tenant Act 1985.

If a landlord issued a 'no fault' possession notice in response to a request for repair (otherwise known as retaliatory eviction), the court can refuse to make a possession order and it will not be possible to issue a further 'no fault' notice until 6 months later.

## 8. JOINT CONTRACT HOLDERS

A joint contract-holder will be able to leave a contract without ending the contract entirely. New joint contract-holders can be added without having to end the current contract and start another one.

## 9. WHAT ARE SUCCESSION RIGHTS?

There is a procedure which allows for both a 'priority' and 'reserve' successor to succeed to the occupation contract. Thereby two successions to the contract may take place, for example a spouse followed by another family member. In addition, a new succession right for carers is created. These are rights created for certain categories of people living with the contract holder

in the 12 months leading up to the death of the contract holder. This is addressed in greater detail in a separate Guidance Note.

## 10. PROTECTION AGAINST RETALIATORY EVICTION

A landlord cannot issue a contract holder with a no fault notice when they have complained your home is in a poor state of repair. The court would need to be satisfied that the landlord had not issued the notice to avoid carrying out the repair.

## 11. WHAT IS THE PROCESS ON ABANDONMENT?

It will be possible to repossess an abandoned property without needing a court order. The landlord can serve a four week warning notice and carry out investigations to satisfy themselves that the property has been abandoned.

## FAQs

1. Does the start of an occupation contract trigger the need for an EPC/EICR?

The conversion of an assured shorthold to an occupation contract is not a trigger. The EPC is still valid for 10 years and the EICR for 5, but would recommend giving them to the contract holder.

2. I want to give notice to my contract holder in the next year or so to sell the property/convert to a holiday let. Do I have to wait six months to give notice from when it becomes an occupation contract and then another 6 months' worth of notice?

No if the tenancy was in place before 15<sup>th</sup> July 2022 and is a monthly periodic then it will require a minimum of two months' notice as long as the contract -holder has been in the property for a minimum of 4 months.

3. If possession proceedings have been issued using a section 21 notice will the tenancy still convert? Guidance states that the possession proceedings can still be pursued but in the meantime the tenancy will convert automatically to an occupation contract on 15<sup>th</sup> July.

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