

Explanatory Memorandum to the Renting Homes (Fees etc.) (Wales) Act 2019 (Transitional Provision for Assured Shorthold Tenancies) Regulations 2019

This Explanatory Memorandum has been prepared by the Welsh Government's Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Renting Homes (Fees etc.) (Wales) Act 2019 (Transitional Provision for Assured Shorthold Tenancies) Regulations 2019.

Julie James

Minister for Housing and Local Government

22 July 2019

PART 1

1) Description

This Explanatory Memorandum relates to the Renting Homes (Fees etc.) (Wales) Act 2019 (Transitional Provision for Assured Shorthold Tenancies) Regulations 2019. The Regulations are made under section 25 of the Renting Homes (Fees etc.) (Wales) Act 2019 (“the Act”). The Act prohibits persons from requiring certain payments to be made or certain other steps to be taken in consideration of the grant, renewal or continuance of standard occupation contracts, or pursuant to a term of a standard occupation contract. The Act also makes provision about the treatment of holding deposits and in relation to requirements to publish certain fees charged by letting agents.

Regulation 3 makes transitional provision so as to apply Parts 1 to 5 and 7 of the Act to an assured shorthold tenancy under Part 1 of the Housing Act 1988 (“the 1988 Act”). Regulation 3(d) ensures that section 20 of the Act is read so as to restrict a landlord of a dwelling subject to a standard occupation contract* from giving notice under section 21 of the 1988 Act (“a section 21 notice”) if the landlord has required a prohibited payment which has not been repaid. Similarly if a landlord has been paid a holding deposit which has not been repaid and circumstances are such the failure to repay amounts to a breach of the requirements of Schedule 2 to the Act, a section 21 notice cannot be given. References in the Act to ‘contract-holder’ and ‘standard occupation contract’* are to be read as ‘tenant’ and ‘assured shorthold tenancy’ under the 1988 Act.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

These Regulations are made under section 25 of the Act and are being made under the negative resolution procedure. They come into force on 1 September 2019.

4. Purpose and intended effect of the legislation

These regulations make transitional provision to ensure the Act applies to assured shorthold tenancies under Part 1 of the Housing Act 1988 (except Part 6 in respect of the publication of letting agents fees)

5. Consultation

No consultation has been undertaken. These Regulations ensure the Act applies to assured shorthold tenancies.

6. Regulatory Impact Assessment (RIA)

A regulatory impact assessment has not been prepared in respect of these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to the Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessments as to the likely costs and benefits of complying with these Regulations.