

2019 No. (W.)

HOUSING, WALES

**The Renting Homes (Fees etc.)
(Wales) Act 2019 (Transitional
Provision for Assured Shorthold
Tenancies) Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Renting Homes (Fees etc.) (Wales) Act 2019 (“the Act”) prohibits a landlord, letting agent or any other person from requiring a prohibited payment to the landlord, letting agent or any other person—

- (a) in consideration of the grant, renewal or continuance of a standard occupation contract, or
- (b) pursuant to a term of a standard occupation contract which purports to require the payment to be made.

Payments are prohibited unless they are permitted under Schedule 1 to the Act. The Act also makes provision about holding deposits and in relation to requirements to publicise 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”). The transitional provision made in respect of section 20 of the Act in regulation 3(d) restricts a landlord of a dwelling that is subject to a standard occupation contract from giving a notice under section 21(1)(b) or (4)(a) of the 1988 Act (“section 21 notice”) in relation to the dwelling if the landlord has required a prohibited payment and, as a result of that requirement, a payment has been made but not repaid. Similarly, if a holding deposit paid in relation to a standard occupation contract has not been repaid and the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to the Act, a section 21 notice may not be given.

Under the Renting Homes (Wales) Act 2016 (“the 2016 Act”) an assured shorthold tenancy converts to a standard occupation contract by virtue of section 240 of, and Schedule 12 to, the 2016 Act. The 2016 Act makes provision about tenancies and licences which confer the right to occupy a dwelling as a home, including provision establishing two kinds of contract for the purpose of renting homes. A “dwelling” is defined in section 246 of the 2016 Act as a dwelling which is wholly in Wales. The Act follows the 2016 Act definition of “dwelling”, therefore, these Regulations do not apply to an assured shorthold tenancy of a cross border property (i.e., a dwelling which is not wholly in Wales).

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

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Made 18 July 2019

Laid before the National Assembly for Wales
22 July 2019

Coming into force 1 September 2019

The Welsh Ministers, in exercise of the power conferred on them by section 25 of the Renting Homes (Fees etc.) (Wales) Act 2019(1), make the following Regulations.

Title and commencement

1.—(1) The title of these Regulations is the Renting Homes (Fees etc.) (Wales) Act 2019 (Transitional Provision for Assured Shorthold Tenancies) Regulations 2019.

(2) These Regulations come into force on 1 September 2019.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Renting Homes (Fees etc.) (Wales) Act 2019;

“assured shorthold tenancy” (“*tenantiaeth fyrddaliadol sicr*”) has the same meaning as in Part 1 of the Housing Act 1988(2).

(1) 2019 anaw 2; *see* section 28 for the definition of “regulations”.

(2) 1988 c. 50.

Application of Parts 1 to 5 and 7 of the Act in respect of assured shorthold tenancies

3. Parts 1 to 5 and 7 of the Act (including section 20, when read as provided for in this regulation) are to be treated as having effect in relation to assured shorthold tenancies, and for this purpose—

- (a) references in the Act to a standard occupation contract are to be read as references to an assured shorthold tenancy,
- (b) references in the Act to a contract-holder are to be read as references to a tenant under an assured shorthold tenancy,
- (c) references in the Act to a landlord are to be read as having the same meaning as do references to a landlord in the Housing Act 1988,
- (d) section 20 of the Act is to be read as follows—

“20. Restriction on terminating contracts

(1) A landlord of a dwelling subject to a standard occupation contract may not give a notice under subsection (1)(b) or (4)(a) of section 21 of the Housing Act 1988 in relation to the dwelling at a time when—

- (a) the landlord has required a prohibited payment to be made,
- (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
- (c) the prohibited payment has not been repaid.

(2) A landlord of a dwelling subject to a standard occupation contract may not give a notice under subsection (1)(b) or (4)(a) of section 21 of the Housing Act 1988 in relation to the dwelling at a time when—

- (a) a holding deposit paid in relation to the standard occupation contract has not been repaid, and
- (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2.

(3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—

- (a) a payment of rent under the tenancy;

- (b) a payment required as security in respect of the tenancy.”, and
- (e) Schedule 3 to the Act is to be treated as being omitted.

Julie James

Minister for Housing and Local Government, one of
the Welsh Ministers

18 July 2019