



Llywodraeth Cymru
Welsh Government

RENTING HOMES (WALES) BILL

Explanatory Memorandum

Incorporating the Regulatory Impact
Assessment and Explanatory Notes

February 2015

Explanatory Memorandum to the Renting Homes (Wales) Bill

This Explanatory Memorandum has been prepared by the Welsh Government's Department for Local Government and Communities and is laid before the National Assembly for Wales.

Member's Declaration

In my view the provisions of the Renting Homes (Wales) Bill, introduced by me on 9 February 2015 would be within the legislative competence of the National Assembly for Wales.

Assembly Member in charge of the Bill

Lesley Griffiths AM
Minister for Communities and Tackling Poverty

February 2015

CONTENTS

PART 1

1. Description (page 5)
2. Legislative Background (page 6)
3. Purpose and intended effect of the legislation (pages 7 - 38)
4. Consultation (pages 39 - 42)
5. Power to make subordinate legislation (pages 43 - 54)
6. Regulatory Impact Assessment (pages 55)

PART 2 – REGULATORY IMPACT ASSESSMENT

7. Options, costs and benefits (pages 56 - 79)
8. Competition Assessment (pages 80 - 83)
9. Post implementation review (pages 84 - 85)

APPENDIX A: Competition Assessment Filter

APPENDIX B: References

Annex 1 – Explanatory Notes

1. Description

1. The Renting Homes (Wales) Bill will reform the legal basis for renting a home from a private landlord or community landlord, which includes local authorities and registered social landlords.
2. The Bill will ensure the legal relationship for renting a home is based on two types of contract: a secure contract and a standard contract. Both will set out the rights and responsibilities of both landlord and contract-holder (the term used for “tenant” and “licensee” in the Bill).

2. Legislative background

3. The National Assembly for Wales has the legislative competence to make provision in relation to housing in Wales by virtue of section 108 of, and Part 1 (Subject 11:Housing) of Schedule 7 to, the Government of Wales Act 2006 ("the Act").

Subject 11 from Part 1 of Schedule 7 to the Act is as follows:

"Housing. Housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits. Encouragement of home energy efficiency and conservation, otherwise than by prohibition or regulation. Regulation of rent. Homelessness. Residential caravans and mobile homes"

4. The above provides the National Assembly with the competence to make the provisions contained in the Renting Homes (Wales) Bill.

3. Purpose and intended effect of the legislation

Introduction

5. The Welsh Government is committed to doing as much as possible to help people meet their housing needs. The approach, which reflects its core values of fairness, social justice, equality, and sustainable development, recognises the importance of safe, secure and affordable homes as the fabric of people's lives and that of strong communities. The Government's role is to consider how the whole system works and to intervene where it is sensible and effective to do so. Tenancy law is a critical element of the housing system and its efficiency.
6. The Renting Homes (Wales) Bill is a significant piece of legislation. As such, it contains considerable detail and some elements of the Bill are technical and complex. This Explanatory Memorandum is designed to convey information on the key elements of the Bill and its provisions.

Overview of the Bill

7. The Bill brings together and modernises the existing complex raft of legislation into one new piece of legislation, and in doing so seeks to improve the arrangements for renting a home in Wales. It proposes:
 - (i) Two main types of occupation contract, which will replace existing forms of occupation arrangements;;
 - (ii) These new contracts will comprise fundamental terms set out on the face of the Bill, supplementary terms to be set out in regulations made by the Welsh Ministers, and any additional terms as negotiated and agreed by landlords and contract-holders;
 - (iii) Contracts will also have to cover key matters such as the address of the property, the level of rent and the rental period; and
 - (iv) An approach supported by model contracts, which incorporate the relevant fundamental and supplementary terms depending on differing circumstances.
8. This approach aims to achieve:
 - (i) A clearer, more logical, legal framework, which reflects fairness and equality;
 - (ii) A simple and effective basis for renting a home from a community landlord or private landlord;
 - (iii) Greater understanding by landlords and tenants of their respective rights and responsibilities, thus reducing the problems and difficulties that occur with the current system; and
 - (iv) More flexibility for community landlords, private landlords and support services to meet people's housing needs, including those of vulnerable groups.

Context

9. The financial downturn in 2008, combined with tighter lending criteria and housing supply pressures, means that the rental sector is playing an increasingly important part in our housing system. There are currently around 440,000 rented homes in Wales, which means around one in three people, over 1 million people in all, live in rented accommodation¹.
10. Social rented housing plays a vital part in ensuring that people whose needs cannot be met by the housing market can access a decent, affordable, home. It is a major contribution to tackling poverty. Intermediate rented housing, the provision of which is increasing and which is rented at below full market rates also plays an important role in meeting the needs of people who can't afford full market rental rates.
11. The private rented sector is also more important as a housing option.² An effective private rented sector is an essential part of a well-functioning housing market. It plays a critical role in supporting economic mobility, providing flexibility and choice to those who choose not to, or are unable to enter into home ownership. It also provides a home for many of our most vulnerable people. The financial downturn has amplified its importance to the housing market of the future, both in providing homes for younger people, and in contributing towards an increase in the supply of homes. Thus it is important that arrangements for renting a property from a private landlord work well for both parties.

Current position

12. There are currently many different forms of tenancy in both the social housing and private rented sectors. Furthermore, individual tenancy agreements can vary greatly from one landlord to another. These differences and variations can cause people to resist moving between landlords, which can limit their choice of a home and the ability of local authorities to help people to find homes.
13. Disputes between tenants and landlords also arise as a result of the complexity of current law. Joint tenancies can present difficulties in cases of domestic abuse or when parents split up. In some instances, the law actually puts individuals at risk of becoming homeless rather than facilitating a more sensible solution. These issues contribute to renting often being a last resort as a housing option, or the only alternative for those who are unable to buy a home.
14. Action has been taken separately through the Housing (Wales) Act 2014 to ensure better letting and property management practices in the private rented sector. However, underlying both the private and social rented sectors is the law for renting a home. This is complex and not easily understood by tenants and landlords alike. Many separate

Housing Acts currently apply and, over time, they have been subject to substantial amendment which has added to the complexity. This has been exacerbated by the case law that has developed over time. The current position is not conducive to an efficient housing system. In considering the question of whether current law works as well as it could, is clear and fair, the answer has to be “no”.

15. The result of changes over the years is an increasingly complex legal framework, which is difficult to understand for many of those who work in the field of housing, let alone landlords and tenants. It is now considered that only the most experienced housing lawyers fully understand the complexities of housing law. The current position is summed up nicely by the following extract from a quote from a member of the judiciary:

“Housing law has become an impenetrable forest. The once mighty oaks of the common law are in a sorry state. There are few paths through the forest, known only to the most skilful lawyers. Some who enter the forest escape with scratches and torn clothes. Many become hopelessly lost”³

16. The lack of understanding, especially amongst tenants, means renting a home is often seen as the last option or, in some cases, the only option. It has become increasingly unclear for tenants, and indeed some landlords, what type of tenancy or licence is in place and what rights and responsibilities apply to them. This uncertainty, or ignorance, can lead to worry, stress and disputes which often lead to court action. The Bill will help to avoid such problems through ensuring the rights and responsibilities of both landlords and contract-holders will be clearly set out, so the parties will know where they stand and disputes can be dealt with more easily.
17. Given the increasing reliance on the rented sector, the importance of appropriate and effective legislation that is easy to understand is paramount. Unfortunately, the current law governing the relationship of landlord and tenant has become “an irrationally complicated mess”⁴. Many disputes between landlords and contract-holders arise from ignorance or difficulties in understanding and applying the requirements of, and obligations on, both parties.
18. Lord Woolf, the former Lord Chief Justice, said within Access to Justice, Final Report which was published in July 1996:

“The time has come for root and branch reform of housing law procedural reform can have only a limited impact on [housing law] reform of the substantive law on housing could do more than anything to reduce cost and delaythe main source of difficulty is the complexity of the substantive law itself The Law Commission should be invited to carry out a review of housing law with a view to

consolidating the various statutory and other provisions in a clear and straightforward form.⁵

19. That report dealt primarily with improving the procedures of the civil courts, with the aim of increasing access to justice by reducing the cost and delay of going to court. Lord Woolf was firmly of the opinion that in the key area of housing, in particular, where there were disputes between landlords and tenants, the law itself was so complex that this too amounted to a considerable barrier to access to justice.
20. This reinforced calls for regulatory change in the rented housing sector, which ultimately led, in 2001, to the UK Government asking the time asked to examine the sector and make recommendations for change. The Commission published its final recommendations in 2006, which received widespread support.
21. The UK Government has not taken forward the Law Commission's recommendations. Separately, the Welsh Government has developed further the work of the Law Commission leading to this Bill.

Evidence base

22. The Bill and its provisions are grounded in the extensive work of the Law Commission and the evidence behind it. As part of its work, the Commission undertook two separate consultations: one covering status and security⁶ and the other covering co-occupation, transfer and succession⁷. There was significant engagement with stakeholders and more than 600 formal written responses to the two papers. Members of the Commission's team addressed over 100 conferences, seminars, workshops and other meetings on the proposals, including events held in Wales.
23. The Commission's recommendations were set out in *Renting Homes: The Final Report*, which was published in 2006⁸. In 2012, the Welsh Government announced it would bring forward legislation to implement the report's recommendations⁹.
24. Following this announcement, and working with the Welsh Government, the Commission reviewed its original report. It published another report, which updated its original proposals and addressed devolution issues arising from implementing the proposals insofar as they applied in Wales¹⁰.
25. The Law Commission's work above provides a solid evidence base for the proposals in this Bill and was the foundation for the additional research, consultation and engagement with stakeholders. The details, which are set out in Chapter 4, include the results of research with tenants and with private landlords.

Purpose and intended effect

26. There is little doubt amongst housing experts an improved system for renting a home must be underpinned by significant changes to the current legislation. The changes need to be clear, understandable and proportionate.
27. The problems identified can be addressed and overcome by better tenancy arrangements which create a clearer understanding between landlord and tenant at the outset of a tenancy. Following careful consideration of a wide range of evidence, the Government is taking action to improve the arrangements for renting a home in Wales through the provisions set out in this Bill.
28. The new arrangements will mean, wherever possible, consistent terms are used irrespective of whether the landlord is a local authority, housing association or private individual. This will allow important matters to be clearly understood by both landlord and tenant, reduce problems caused by a lack of understanding and make it easier for people to get advice on addressing any problems should they arise. In addition to providing simpler and more flexible arrangements for renting a home, the Bill will do more to:
 - Create a more flexible framework to help support the victims of domestic abuse from a housing perspective;
 - Address housing-related anti-social behaviour;
 - Ensure a more flexible approach to joint tenancies, thus making such arrangements easier for those who need or want them;;
 - Provide a more consistent approach to succession rights;
 - Establish fairer and more consistent arrangements for eviction for rent arrears from social housing; and
 - Clarify landlords' obligations for repair and matters relating to the condition of a property.
29. Over and above doing more to help people to meet their housing needs, the Bill will establish clearer arrangements for landlords and tenants and a better understanding of their rights and responsibilities. This should translate into fewer disputes that end up being addressed through the courts, and a reduction in the worry and costs that this can involve for both parties.
30. The Welsh Government wishes to see the development of a sustainable and high quality private rented sector. At the same time, the commitment to the principles of the secure tenancy remains strong and nothing in the proposals undermines that commitment. The proposals will not fundamentally alter the balance of rights and responsibilities of tenants and landlords that currently exists.

31. The following pages explain the key provisions in the Bill. Where possible, these are cross-referenced to the relevant parts of the Bill itself for clarity and context and to aid understanding. This is not possible in all cases; for example, where a policy intention is achieved by repealing existing legislation.

Occupation contracts

(Key references in the Bill: Part 2, chapters 1, 2 and Schedule 2)

32. A written contract is not currently required as part of a tenancy or licence. Where written contracts are issued, these can vary hugely from property to property and from landlord to landlord. Contracts can be ambiguous, difficult to understand, or contain unlawful terms. A poorly drafted contract is often little better than no contract at all, and sometimes worse. The Renting Homes (Wales) Bill will require all home rentals to be underpinned by a written contract that contains all of the essential information relevant to both parties.
33. Currently, there is also confusion over the legal basis under which someone can rent their home. Sometimes, landlords will purport to issue a “licence” rather than a “tenancy” because they believe this gives them more control, whereas in law a tenancy will have been created, irrespective of what is stated in the agreement. To overcome this problem, the occupation contracts created under the Bill will apply to both tenancies and licences, providing certain requirements are met. This resolves a significant and long-standing area of confusion under current law. This is also why, instead of the terms “tenant” or “licensee”, the Bill refers to “contract-holder”. This allows for the fact that some contract-holders will be tenants while others will be licensees.
34. At the heart of the Bill are the new “occupation contracts”. With a limited number of exceptions, the Bill replaces all current tenancies and licences with just two types of occupation contract. An occupation contract will be provided by a landlord to anyone renting the property as a home and will be one of two main types:
- (i) Secure Contract based on the secure tenancy currently issued by local authorities;¹¹
 - (ii) Standard Contract based on the current assured shorthold tenancy.¹²
35. Secure tenancies currently used by local authorities are generally seen as providing the greatest degree of protection for tenants. As the basis for the new secure contracts, they will therefore provide a high degree of security of tenure that is protected by law. They will apply consistently to social housing provided by local authorities and registered social landlords (as well as a number of other authorities), thereby creating the much called-for ‘single social tenancy’. There will

also be nothing to stop private landlords issuing a secure contract if they choose to do so.

36. The standard contract will be similar to the current assured shorthold tenancy. It has a lower degree of security of tenure protected under legislation than the secure contract but allows for landlords and contract-holders to agree fixed terms that provide increased security.
37. There are two main versions of the standard contract:
 - (i) Periodic running typically from week to week or month to month;
 - (ii) Fixed term running for a pre-agreed set period, usually a number of months or years.
38. On implementation, the vast majority of tenancies or licences made between one or more persons of at least 16 years of age to rent a property as a home will be either a secure or standard occupation contract. Most existing agreements will also convert to the appropriate type of occupation contract. For example, a fixed term assured shorthold tenancy will convert to a fixed term standard contract.

Terms of contracts and variation of terms

(Key references in the Bill: Part 1, Chapters 3, 4 and 5)

39. Each occupation contract will comprise three elements.
 - (i) Key Matters;;
 - (ii) Fundamental Terms; and
 - (iii) Supplementary Terms.
40. There is a fourth element, namely any “Additional Terms” which the landlord and contract-holder may agree.
41. “Key Matters” – these are mandatory and set out the essential facts for the contract, namely:
 - The property;
 - The effective date of the contract;
 - The amount of rent; and
 - The rental period.
42. “Fundamental Terms” - these set out the primary rights and responsibilities under the contract, for example the requirement to provide a written statement of the contract and the process for ending the contract. Some of the fundamental terms can be left out or changed by agreement, but only where this benefits the contract-holder. Other fundamental terms, such as those addressing prohibited conduct,

deception, survivorship and the death of the contract-holder cannot be left out or changed. The fundamental terms are included in the Bill.

43. “Supplementary Terms” - these will be set out in regulations to be made by the Welsh Ministers. They will be further rights and responsibilities that apply under the contract, such as the obligation to pay council tax and utility bills. The landlord and contract-holder are free to agree to leave out or modify supplementary terms, provided that by doing so they do not undermine the fundamental terms of the contract.
44. “Additional Terms” - these are for those issues not covered by fundamental or supplementary terms. These terms, for example the keeping of pets, should be agreed between the landlord and contract-holder before they are included in the contract.
45. The Bill provides mechanisms for contracts to be varied, according to whether they are secure contracts, periodic standard contracts or fixed term standard contracts. However, certain terms cannot be varied, such as those relating to prohibited conduct, death of the contract-holder and securing a contract by deception.
46. To support landlords in complying with the obligation to issue written contracts that include all relevant key matters, fundamental and supplementary terms, and “model contracts” will be freely available. These will provide for the different renting scenarios that exist in practice, for example an initial fixed term followed by a periodic contract.

Existing tenancies not covered by the Bill

(Key references in the Bill: Schedule 2)

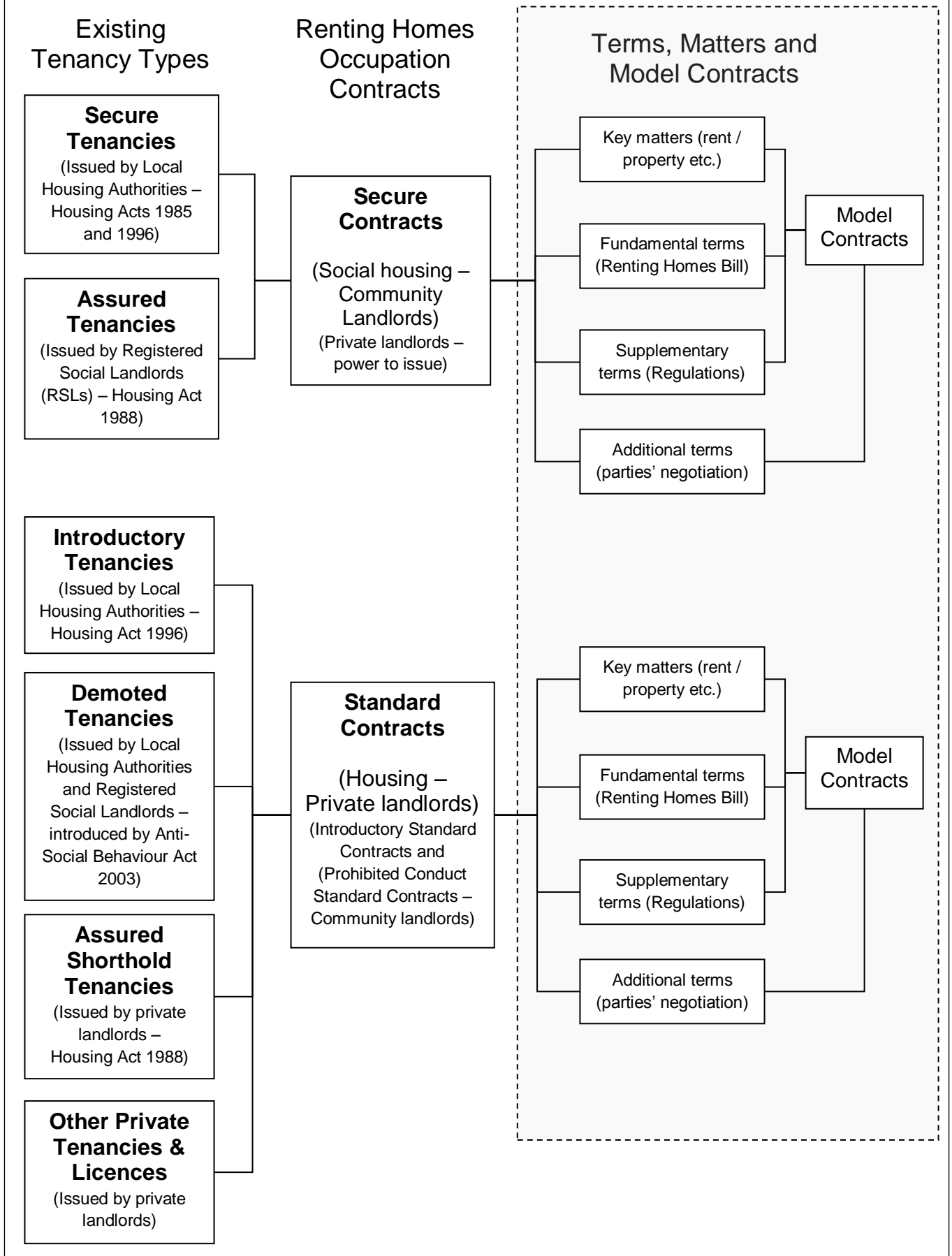
47. After careful consideration, it is been decided that a small number of existing tenancies will remain outside the provisions of the Bill. Tenancies, which have been excluded on the basis of, for example, fairness and practicality are:
 - Tenancies subject to the Rent Act 1977;
 - Agricultural tenancies;
 - Long tenancies of more than 21 years; and
 - Nightshelter accommodation (provided for up to 24 hours at a time).
48. In addition, the following circumstances in which people occupy a property will not be affected by the new legislation unless the landlord gives notice that the relevant tenancy or licence is to be an occupation contract:
 - Holiday lets;;

- Accommodation in a care home;
 - Accommodation in barracks;
 - A tenancy or license provided as a temporary expedient in relation to a trespasser; and
 - Accommodation that is shared with the landlord, including as a lodger.
49. Community landlords, which include local authorities and registered social landlords, will be required to enter into secure contracts except in the following circumstances, where standard contracts may be offered:
- Introductory occupation (usually for an initial period of twelve months before becoming a secure contract);
 - Accommodation provided for asylum seekers or displaced persons;;
 - Supported accommodation;
 - Interim accommodation for homeless persons;
 - Service occupancy, where occupancy is a requirement of employment e.g. police, fire and rescue service;
 - Student accommodation;
 - Accommodation let outside the normal allocation rules or let to a key worker;
 - The property is intended for transfer to a housing association and the occupation is granted under those terms;
 - Temporary accommodation where:
 - Land has been acquired for development;
 - The contract-holder has relocated for the purpose of taking up employment;
 - The accommodation is leased to the landlord for use as temporary housing accommodation; or
 - Works are being carried out on the previous property.
50. Community landlords will be required to use standard contracts for introductory occupation, and as the basis of contracts for medium-term supported housing. Such contracts can also be used where, in response to the holder of a secure contract engaging in prohibited conduct, a community landlord or registered charity obtains a court order imposing a “prohibited conduct standard contract”, usually for a period of twelve months.
51. Tenancies and licences relating to supported accommodation provided for up to six months will not be issued as occupation contracts. However, if the accommodation is provided for more than six months, it would result in the individual having an occupation contract. There are circumstances when this may not apply and these are described in the section on supported housing. The automatic conversion of a supported standard contract to a secure contract after two years, as proposed by the Law Commission, is not being taken forward. This is in response to concerns raised by stakeholders that this risked a

reduction in availability of what is already a scarce form of accommodation for those who require it.

52. Figure [1] below shows how occupation contracts will operate within the current system of licences and tenancies.

Figure 1. Renting Homes (Wales) Bill - Overview



Duty to provide a written contract

(Key references in the Bill: Section 31)

53. A clear, understandable, contract is essential to effective arrangements for renting a home. Both the landlord and contract-holder must have access to a written contract in order to understand their rights and responsibilities. The Bill will require a landlord to provide the contract-holder with a written statement of the contract no later than two weeks from the date of occupation. Most landlords will no doubt continue to issue a written contract for signature before the contract-holder moves in. The two-week period is to allow for situations where accommodation is provided at very short notice. This will ensure that every person renting a home receives a written contract.
54. As stated above, the contracts will contain a range of terms, some of which are mandatory and some optional. However, the majority of terms will be drawn either from the Bill or from regulations made under the Bill, thus leading to far greater consistency across contracts. Having consistent terminology will help improve people's understanding of the arrangements and their obligations as the contract-holder. At the same time, the landlord will also be clear as to his or her rights and obligations.
55. To assist landlords, model contracts will be readily and freely available for landlords to use as the basis for their agreements. The Welsh Government will ensure arrangements are made for this and it will encourage their use. Using these, both parties could potentially complete a contract simply by inserting the property-specific details, such as the name of the landlord and contract-holder, the address and the amount of rent.
56. If a landlord fails to issue a written contract within two weeks of occupation, it would carry implications for the ability to gain possession of the property where occupied under a periodic standard contract. The landlord would be unable to issue a "no-fault" possession notice to the contract-holder. In addition, and with the intention of emphasising the need for, and importance of, written contracts, a landlord would not be able to issue any such notice for six months from the date the contract was provided to the contract-holder. In addition, should the landlord not provide the written statement within the two-week period, the landlord would be liable to pay compensation to contract-holder amounting to a day's rent for each day until the contract is provided, up to a maximum of two months' rent. A contract-holder would be able to offset rent against this compensation.
57. The consistency of terminology and approach across contract types, and particularly, the use of the model contracts, will help to minimise problems and misunderstandings. However, if an occupation contract issued by a landlord is either incomplete or incorrect, and the matter cannot be resolved between the parties, the contract-holder would be

able to apply to the court for a declaration on the content of the contract. The court may also order compensation to be paid by the landlord.

58. A timely and accurate occupation contract benefits both the contract-holder and the landlord. Responses to the Welsh Government's consultation¹³ in 2013 show that in the vast majority of cases, landlords insist on contracts for their tenants and most landlords welcome the clarity the new occupation contracts will bring. However, in the minority of cases where no contract is issued, or it is deficient, the sanctions provided in this Bill will help to ensure compliance.
59. An occupation contract is considered to be effective on either the date the contract is provided to the contract-holder or the date occupation started, in which case the landlord has two weeks to provide the contract in writing.

Ending a contract

(Key references in the Bill: Part 9)

60. The process and circumstances by which current tenancies and licences are ended by a landlord or indeed a tenant are many and varied. The end of a contract, and the way that this happens, is perhaps one of the most confusing parts of current legislation. It is the cause of the majority of court actions and is always likely to be. It can involve time, expense, and worry on the part of both landlord and tenant. The purpose and intended effect of the Bill is to clarify rights and responsibilities and thus reduce the number of disputes and court actions.
61. Many of the claims and disputes can be avoided if the process for ending the contract is clear to all parties at the outset. The arrangements for a landlord or someone renting a home to end a contract, or the circumstances in which a contract comes to an end, must be clear to all concerned.
62. The Bill sets out clear, straightforward and fair processes for ending a contract, which reflect several, fundamental, changes to the current law. The Explanatory Notes (at Annex A) provide detailed information on the provisions and how they will work in practice, but in summary::
 - a. At any time before occupying the property, the contract-holder may give notice to the landlord that he or she wishes to end the contract. The contract will then be terminated provided no written contract has been issued by the landlord.
 - b. After the date that a contract-holder occupies the property or after a contract has been issued, both parties must adhere to the terms of the contract before it can be terminated. The purpose behind this is to achieve a fair and balanced position -- a "level playing field" for

both parties to the contract. However, the intention of the Bill to provide flexibility where it is needed means that there is an exception to this, which is where the landlord and the contract-holder are in mutual agreement to end the contract.

- c. A person who occupies property under a periodic standard contract and who wants to leave the property must give at least four weeks' notice to the landlord, unless a different notice period is agreed to the advantage of the contract-holder.
- d. A contract-holder may withdraw a notice to leave by notifying the landlord and, provided the landlord does not object to the withdrawal of this notice, the contract will continue. If the contract-holder leaves the property before the notice date, the contract will still continue and not end until the notice has expired.
- e. At the end of a fixed term standard contract, the landlord and contract-holder may enter into another contract relating to that property. Where the contract-holder remains in occupation, the contract will default to a periodic standard contract under the same terms (save for the fixed term).
- f. If any term of the contract is not met in a way that results in the contract-holder being forced to leave the property, the contract would be considered to have ended when possession is given up. This situation is known as a repudiatory breach. For example, a landlord refusing to carry out repairs required under the contract may cause the contract-holder to leave a property.
- g. In cases of the death of a contract-holder, and where there are no succession rights to the property, the contract is ended automatically one month after the death or, if earlier, when notice is provided to the landlord by representatives of the deceased. Where there is a successor to the property, such persons can provide notice to the landlord to end the contract of the deceased, rather than succeeding to the contract. Information on joint contracts and succession rights are provided later in this Chapter.

Repossession by the landlord

(Key references in the Bill: Part 9, Chapter 3)

- 63. Figures provided by Her Majesty's Courts and Tribunal Service show that, in 2012/13, 5,122 possession claims were issued by landlords in Wales; 3,829 by community landlords and 1,293 by private landlords. In response to these claims, the courts made 4,393 possession orders. In turn, these possession orders resulted in 1,621 warrants being issued, of which 838 were executed.
- 64. Of course, these figures do not take account of those individuals who left their home simply in response to their landlord issuing a notice

seeking possession (which would otherwise only be enforceable through the courts). While actual evictions were almost certainly far higher than suggested by these figures, 838 evictions is still a significant figure. These figures also reflect how community landlords seek suspended possession orders to encourage tenants to address rent arrears.

65. The Bill will make changes to the processes and criteria currently used when a landlord seeks possession of the property. It replaces the long list of grounds for possession under current law with terms in the contract itself. The purpose is to ensure both contract-holder and landlord are clear from the outset of the circumstances under which the property can be repossessed.
66. The Bill will considerably simplify the grounds for possession. There will be only six:
 - Breach of contract;
 - Estate management grounds;
 - Contract-holder's notice;
 - Landlord's notice;
 - Landlord's notice under a fixed term contract; and
 - Serious rent arrears.
67. As under current law, these grounds are either "discretionary" or "mandatory". This refers to whether the court has discretion as to whether to issue a possession order or it is required to do so. In most cases, the grounds for possession under the Bill are discretionary.
68. Only one mandatory ground for possession applies to both secure and standard contracts. This is where the contract-holder serves the landlord with a notice to terminate the contract but then fails to leave on the specified date.
69. For standard contracts, there are two other mandatory grounds for possession by a landlord. These are:
 - Serious rent arrears (for example where the rent is paid weekly or fortnightly and at least eight weeks' rent is outstanding); and
 - A landlord's "no-fault" notice under a standard periodic contract (similar to the notice currently issued under section 21 of the Housing Act 1988).
70. For both secure and standard contracts, there are two types of discretionary grounds where the landlord may seek possession. One is a breach of contract. The other is for estate management reasons.
71. For community landlords, and others providing long-term accommodation under a secure contract, there may be circumstances when repossessing a property is necessary using the "estate

management” grounds. These are circumstances which do not relate to any wrong-doing of the contract-holder but are necessary, reasonable or beneficial for the wider community. Examples of estate management grounds include the redevelopment of the property and under-occupation (in specific circumstances). The landlord must provide suitable alternative accommodation if seeking to use an estate management ground.

72. Any possession claim by a landlord must be preceded by a notice which sets out the ground under which the landlord is seeking possession. It must state particulars of the ground and the date after which the landlord can begin a possession claim through the court.
73. There are currently too many varying time frames for proceedings that only serve to cause confusion. The Bill provides that proceedings relating to breach of contract cannot be started until one month after a possession notice has been given to the contract-holder. The one exception to this is where there has been a breach of the prohibited conduct term, discussed further below.
74. As is currently the case with an assured shorthold tenancy, landlords will retain the ability under standard contracts to give a “no-fault” notice that they want to recover possession. The date specified in the notice, upon which the landlord requires possession, must be not less than two months after the date the notice is given to the contract-holder. In the event of such a notice being given, the landlord will have two months from the date specified in the notice within which to bring the possession claim.
75. If a possession notice for serious rent arrears is not followed up by actual proceedings within six months, the notice lapses. This period is four months where possession is sought on the landlord’s “no-fault” notice ground. The intention of this is fairness. It is unfair, as currently happens frequently, for a contract-holder to be permanently under the threat of a possession notice.
76. The current inability of a landlord to obtain a possession order from the court on the “no-fault” notice ground within the first six months of an assured shorthold tenancy, known as the “six-month moratorium” is not included in the Bill. This is discussed further below.
77. In addition to problems related to the complexity of housing law itself, the consultation process revealed dissatisfaction by stakeholders with the court process, particularly regarding inconsistent decisions and delays. This echoes similar findings from the Law Commission’s work. While the variety and complexity of many housing cases means there will never be complete uniformity, the purpose of the Bill is to provide a more structured framework, for judges to use in reaching decisions.

“Ground 8” proceedings for possession

78. A housing association is currently able to pursue a mandatory possession ground against an assured tenant whose rent is eight weeks or two months in arrears. This is commonly known as “Ground 8” – this is in reference to Ground 8 of Schedule 2 in the Housing Act 1988. As Ground 8 is mandatory, if a case is taken to court, and is proved, the court must grant an order for possession to the landlord.
79. Very little use is made of Ground 8. In 2010-11, only 17 of 1,340 possession orders made for rent arrears in respect of housing association assured tenancies were on this ground; just over one in every hundred. The remainder used Ground 1014 (when seeking claims in respect of non-payment of rent), over which the court has discretion.
80. The mandatory nature of Ground 8 means courts are not able to take into consideration factors that may have contributed to any rent arrears. Such factors may have been beyond the tenant’s control, for example the non-payment of housing benefit due to an error or lengthy processing times. However, although Ground 8 is referred to as a mandatory ground, developments in human rights and equality law have changed its nature. This is because tenants are able to raise a defence that granting possession to the landlord would violate their human rights or contravene equality legislation. There are even some suggestions that some District Judges are unwilling generally to accept the mandatory nature of Ground 8 in possession cases.
81. Currently, the ability to obtain a possession order under Ground 8 does not apply to local authority secure tenancies, nor are all housing association tenants subject to this ground. In order to achieve consistency between those who rent from local authorities and those who rent from housing associations (under the single secure contract), the ability to use such a ground for possession would need either to be extended to local authority landlords or removed from housing associations.
82. Given the current use of Ground 8, the general inflexibility provided to courts in considering this ground and the real possibility that such a possession may violate human rights and equality law, abolishing this Ground is the only viable option for establishing a single secure contract. The secure contract will not include an equivalent to Ground 8, and therefore housing provided under the contract will not be subject to any mandatory grounds for possession for rent arrears. This is same position that applies currently to local authority tenants. Overall, three out of every four respondents to the consultation on the White Paper were in favour of standardising the eviction arrangements for rent arrears.

The “six-month moratorium”

83. Under current law for periodic Assured Shorthold Tenancies¹⁵, which are the default tenancy in the private rented sector, a court cannot issue a landlord with a possession order on the landlord’s “no-fault” ground within the first six months of a tenancy. This is known as the “six-month moratorium”.
84. The Bill proposes to remove this bar. It will mean that a landlord could seek a possession claim and the court would be able to grant that claim in the first six months of a periodic standard contract. The proposed change is informed by several factors.
85. Individuals who receive accommodation as part of their employment (service occupancy) will fall under the Bill’s provisions and will benefit from the protection of an occupation contract, rather than a simple licence. Similarly, it will also enable fully mutual housing associations (housing co-operatives) to operate without difficulty within the scope of the scheme. Lettings by educational institutions and local authorities to students will also be included, together with other short-term arrangements that currently have only minimal protection.
86. Landlords also cite the six-month moratorium as an inflexible barrier to some types of renting. This is because private landlords are often reluctant to rent to individuals they consider as high risk -- for example someone who is homeless. During the Bill’s development, it became clear that removing the moratorium would encourage more landlords to rent to such individuals and thus assist in providing accommodation for these groups.
87. The purpose of the change is to increase housing options so that landlords may be prepared to rent to those with, for example, poor renting histories, those renting for the first time or those currently in supported accommodation. This would therefore create opportunities that are not currently widely available.
88. In practice, many landlords let for initial fixed term periods of six or twelve months, under which the moratorium is irrelevant because a “no-fault” notice for possession cannot be issued under a fixed term contract. Survey results show that 89 per cent of landlords prefer the length of their initial tenancy to be six months or more and 98 per cent of landlords prefer their tenants to remain for six months or more.
89. There is therefore no reason to believe that removing the moratorium will cause landlords to alter their letting practices generally. The vast majority of landlords want to keep their tenants for as long as possible and it does not make business sense to seek possession within the first few months of a tenancy. However, it will create greater flexibility for short-term renting, for example to someone who has recently moved to

an area to work or study or to someone between house moves, as well as encourage landlords to consider renting to those they would not do so at present.

90. On a practical note, after issuing the mandatory two months' notice and then proceeding through the court for the possession order, a landlord would have to issue a possession notice almost immediately after a tenant moves in if they are to regain possession more quickly. This is unlikely when a month's rent has been paid in advance, as is typical.
91. The intention behind the Bill is to provide greater security through addressing and clarifying the contractual rights between the parties. It is also questionable what real security is provided solely through imposing an initial six month 'ban' on "no-fault" evictions, since evictions on other grounds can still proceed. In short, removing the moratorium will not affect the vast majority of tenancies but will provide for additional flexibility for short term renting where it makes sense, encourage landlords to rent to those they would not do so at present, and provide additional security for those with minimal protection at present. 84 per cent of respondents to the White Paper were in favour of removing the six-month moratorium.

Abandonment

(Key references in the Bill: Part 9, Chapter 13)

92. One long standing issue for landlords is abandonment; that is, where someone who rents a property simply disappears. In addition to no notice being given, a landlord may suffer from rent arrears and, in some cases, find damage to the property. Abandonment may also leave the property unsecured and so vulnerable to vandalism. The issue of abandonment, and particularly the lack of any current specific provision to deal with it, emerged strongly from the White Paper consultation.
93. Abandonment frequently results in the landlord having to seek approval of the court to repossess the property. This takes time and consequently further affects the landlord's income. Where the landlord is a local authority or housing association, it also creates an unnecessary delay in the availability of social housing for those in need.
94. Where it is clear a property has been abandoned under an occupation contract, the intended effect of the Bill in this regard is to speed up the process for the landlord in order that the property can be re-let to someone else. The Bill allows a landlord to repossess the property without recourse to the court, providing they have carried out the necessary steps to ensure it is abandoned. Where a contract-holder has failed to adhere to the terms of their contract, it is unfair to expect a landlord to expend additional time and expenditure seeking possession through the court.

95. The Bill has a number of safeguards for the contract-holder. In order to regain possession in these circumstances, a landlord must give the contract-holder a written warning notice stating the property is believed to be abandoned. The contract-holder will have four weeks to inform the landlord the property has not been abandoned. At the end of the four weeks, if the landlord still believes the premises to be abandoned, the contract can be brought to an end.
96. By way of further safeguards where a lodger occupies the property, or any other person does so under a sub-occupation contract, the landlord must provide a copy of the notice to that person. During the warning period of four weeks, it is the responsibility of the landlord to make such inquiries as are necessary in order to be satisfied the property is abandoned.
97. At the end of the warning period the landlord may bring the contract to an end by providing notice to the contract-holder and take possession of the property immediately. There would be no requirement to seek a court order confirming the possession.
98. The approach to abandonment aims to be fair, balancing the protection of the contract-holder with the ability of the landlord to be able to re-let an abandoned property with minimal delay. This element of the Bill's provisions attracted very strong support in responses to the White Paper, with 97 per cent of respondents in favour of the proposals.

Joint contracts

(Key references in the Bill: Part 3, chapter 5 and Part 5, Chapter 3)

99. The Bill takes a new approach to the often problematic issue of joint contracts. The current law around what happens to a tenancy when one of the tenants leaves is unhelpfully rigid. At present, one of the joint tenants can, often unintentionally, bring the whole tenancy to an end simply by serving a notice to quit. This can result in unintentional homelessness for the other joint tenants.
100. The broad approach in the Bill on joint contracts is that each of the parties should, wherever possible, be treated as an individual. The Bill therefore allows a joint contract-holder to end their interest in an occupation contract, without ending the whole contract. The intention is to give greater protection and security to the other tenant(s) who wish to remain in the property. Likewise, the Bill enables a joint contract-holder to have their interest removed by the court without it affecting the other contract-holder(s). The purpose behind this is to prevent the actions of one tenant adversely affecting the interests of others.
101. The Bill requires all secure and standard periodic contracts to contain a term that a joint contract-holder may give notice to the landlord that they wish to withdraw from the contract. This notice will specify the

withdrawal date after which they will no longer be bound by the contract.

102. The more flexible approach to joint contracts will also enable a more targeted approach to dealing with anti-social behaviour and domestic abuse. This is discussed below under “Prohibited conduct”

Practicalities of occupation contracts

103. The approach set out in provisions in the Bill aims to balance the control a landlord has over his or her property with the contract-holder’s autonomy in the use of the property as their home. Under the Bill, a contract-holder will not be allowed to do anything, such as creating a sub-contract which allows someone to occupy the property, transferring the contract or mortgaging the property, unless these things are specifically permitted within the contract. To do so would be a breach of the contract and so be a ground for the landlord to serve a notice seeking possession. Making such things clear at the outset can help prevent subsequent disputes.
104. There may, of course, be practical and reasonable circumstances when someone who rents a property may wish to add another person to the occupation contract; for example, as a relationship develops to the point where a couple wish to live together. This can be done as the terms of the occupation contract include the ability for a contract-holder to add additional contract-holders, subject to the agreement of the landlord where this is a requirement of the contract.
105. If someone is added to the contract, that new contract-holder will have the same rights and obligations as the other contract-holder(s). In order to have effect, the agreement must be in writing and be signed by all relevant parties.
106. Where the contract requires the consent of the landlord to add another person to the occupation contract, the Bill sets out the circumstances in which consent may be reasonably withheld or be granted subject to conditions. An example of such a condition would be that the additional contract-holder must forgo a succession right.

Lodgers

(Key references in the Bill: Part 5, Chapter 4)

107. The Bill aims to improve arrangements for renting a home without creating unnecessary barriers or burdens on relatively common arrangements such as lodging. Therefore, the Bill will allow any holder of a secure contract to take in a lodger or lodgers, without requiring consent from the landlord.
108. A lodging agreement would be between the contract-holder and lodger. This means if a possession order is made against the contract-holder

or the contract-holder dies, the lodger would have no right to remain in the property.

109. In the case of the holder of a standard contract, which is the default contract for the private rented sector, the regulations to be made under the Bill will allow a supplementary term to be included in the contract allowing the contract-holder to take in a lodger.

Sub-occupancy

(Key references in the Bill: Part 3, Chapter 8, section 59-68)

110. There is no fundamental right in the Bill for a contract-holder to enter into a sub-occupation contract with another person. However, it would be possible to agree for this right to be added to a contract as an additional term and the Bill sets out how such an arrangement would operate. The main contract would be known as the “head contract” and the other contract as the “sub-occupation contract”. The intention of this is again to make the arrangements as clear as possible to all parties, reducing the risk of confusion and, ultimately, disputes.
111. The Bill recognises that different arrangements should apply to sub-contracts made:
- With the landlord’s consent and in keeping with any conditions set out by the landlord as part of that consent;
 - With the landlord’s consent but the contract-holder did not comply with conditions set out by the landlord as part of that consent; or
 - Without the landlord’s consent or not in accordance with the occupation (head) contract.
112. The Bill will, while allowing the flexibility of sub-contracts, ensure that landlords do not find themselves taking over an agreement to which they have not consented.

Succession rights and transfer

(Key references in the Bill: Part 3, Chapter 8, section 73-86)

113. Who can and cannot succeed to a tenancy on the death of the tenant is another confusing aspect of current housing law. Research conducted through the [Wales Omnibus Survey](#) in July 2014 shows that one in three housing association tenants (32 per cent) do not understand this at all. For local authority tenants it was 30 per cent. The figure for those renting from a private landlord as higher at 47 per cent¹⁶.
114. Overall, 92 per cent of responses to the White Paper were in favour of the standardising the succession rights as proposed in the Bill.
115. Current arrangements under section 91(3) of the Housing Act 1985 (“1985 Act”) allow a secure tenant to assign their secure tenancy to a

person who would be qualified to succeed the tenant were the tenant to die immediately before the assignment. This allows, for example, an elderly contract-holder to transfer on their secure tenancy to a family member before entering residential care. The Bill makes this arrangement, subject to agreement by the landlord, a fundamental term of all secure contracts.

116. Currently, any succession or transfer can also only be to a single person. The Bill makes provision for joint transfer and succession. However, transfer is only necessary where the contract-holder will be leaving the property since adding a potential successor to the contract as a joint contract-holder is possible.
117. Under section 92 of the 1985 Act, secure tenants of local authorities and assured tenants of registered social landlords are able to exchange their tenancies. The Bill will keep this practice in place for secure contract-holders of community landlords. However, the current process is quite inflexible as when more than two tenancies are involved the last tenant in the chain of exchanges must move into the property vacated by the first. The Bill allows instead for a simple chain of transfers that may result in a vacant property at both ends. No transfer can take place without the agreement of the landlord.
118. In relation to fixed term standard contracts there is no statutory right to transfer a contract. However, to allow for such a transfer to be agreed between the landlord and contract-holder, a fixed term standard contract may include an additional term that, if there are joint contract-holders, one or more of them may require the other to join in a transfer of the contract to another person. In such circumstances the contract-holder(s) seeking the transfer may seek a court order that the other contract-holders join in the transfer.
119. A fixed term standard contract may also include an additional term that a joint contract-holder may transfer their rights and responsibilities to another person. In such circumstances the contract must provide that notice is given to all contract-holders of the proposed transfer. This is to ensure that there is no change in the liabilities of the existing contract-holders. Furthermore, the transferee may only occupy the property with the other joint contract-holders' permission.
120. When a joint contract-holder ceases to be a party to the contract, the Bill provides that the surviving or remaining contract-holder becomes entitled to all the rights and obligations of the occupation contract. This is a fundamental term of all occupation contracts. Any contract-holder who withdraws from a contract has no further rights or obligations under the contract but retains any right or liability, for example in relation to any arrears, accruing before he or she leaves the contract.
121. Succession rights have become increasingly complex under current housing law. As previously evidenced, very few tenants currently know

which rights exist or which form of tenancy agreement they are applicable to. The Bill provides a single framework of succession rights that will apply to all occupation contracts.

122. The current system under the Housing Act 1985 prevents succession to a spouse being followed by a member of the family. This is very restrictive and can lead to members of a family being made homeless if, for example, both parents die soon after each other. The Bill will address this restrictive situation that prevents someone who may have lived in the premises all their life from continuing to live in their home. The Bill will also remove the current inequality whereby assured tenancies (issued by housing associations) do not allow at all for succession to family members other than the spouse of the tenant.
123. The Bill will also provide a right of succession to carers under certain circumstances. This is based on a similar provision implemented in Scotland and recognises the demands placed upon relatives or others who look after those who are elderly, ill or disabled. The level of care is often easier to provide if the carer moves into the home of the vulnerable person. In doing so, the carer may be unable to maintain his or her own home. The Bill recognises this by providing a succession right to unpaid carers who give up their own home to care for another person in that person's home and occupies that property as his or her only or principal home.
124. In summary, the Bill allows for one 'priority successor' (spouse or partner) followed by potential 'reserve successor' (resident family member or carer). In the case of a carer or family member other than a spouse, a reserve successor must have lived in the property for at least 12 months. The definition of 'carer' is a person who provides or intends to provide a substantial amount of care and is not employed to do so.

Deposit Schemes

(Key references in the Bill: Part 3, Chapter 4 and Schedule 5)

125. Landlords frequently require tenants to pay a deposit as security in case of, for example, any potential damage to the property caused by the tenant. However, the deposit is the tenant's money and so any deposit paid to a landlord must be properly protected.
126. The Bill adopts the same approach to protecting deposits as current legislation, but extends the application of this approach to all contracts where a deposit is taken (current requirements apply only to assured shorthold tenancies). All deposits must be protected by the landlord through an authorised deposit scheme, as is currently the case. The requirement to protect deposits is therefore a fundamental term of all occupation contracts.
127. Failure of a landlord to protect the contract-holder's deposit and/or properly notify the contract-holder of the details of the deposit scheme

may result in the inability of the landlord to regain possession of the property. For example, a landlord failing to protect the contract-holder's deposit is unable to issue a landlord's possession notice until the deposit is protected correctly. Where a landlord does not comply with the deposit protection requirements the court may, as at present, also order a sum of up to three times the deposit to be paid to the contract-holder.

128. The vast majority of deposits requiring protection will relate to standard contracts in the private rented sector. However, as indicated above, the Bill requires that any deposit taken by a landlord in relation to an occupation contract must be protected. This is an extension to the current legislation, which only requires an assured shorthold tenancy deposit to be protected.

Repairs and maintenance

(Key references in the Bill: Part 3, Chapter 8, section 59-68)

129. The obligations on the repair and maintenance of a rented property can be the source of confusion for landlord and tenant and often, the cause of disputes. The Bill reflects current obligations but, by requiring the landlord's repairing obligations to be included in the occupation contract, unlike as at present, the Bill will help ensure both parties are aware of these responsibilities. The landlord's repairing and fitness for human habitation obligations (see below) do not apply to fixed term standard contracts of at least seven years.
130. The landlord is responsible for keeping in repair the structure and exterior of the house, including drains, gutters and external pipes, and supply installations in proper working order. Such installations would typically include:
- water;
 - gas;
 - electricity;
 - sanitation; and
 - heating and hot water.
131. The Bill sits alongside the current Housing Health and Safety Rating System and the enforcement responsibilities of a local authority will remain as defined by current legislation.

Right to occupy

(Key references in the Bill: Part 3, Chapter 6)

132. The Bill provides for the contract-holder to occupy the dwelling without interference by the landlord. This is the equivalent of the common law

right to quiet enjoyment. Importantly, the right to occupy will apply to occupation contracts that are licences as well as tenancies (the right to quiet enjoyment does not apply to licences).

133. Where a landlord exercises a right under the contract, for example to enter the dwelling to carry out repairs, this would not constitute an interference of the right to occupy.

Fitness for human habitation

(Key references in the Bill: Part 4)

134. The Bill requires the inclusion of a fundamental term in contracts for the landlord to ensure the property is fit for human habitation. This is a change to the original proposals to require a landlord to ensure there are no Housing Health and Safety Rating System Category 1 hazards in the property.
135. While stakeholder responses to the White Paper consultation supported the approach in principle, a number of concerns were raised as to how this would work in practice. These included a concern that the requirement would place a significant burden on local authorities.
136. As a result of the consultation, the Bill adopts an alternative approach that removes the reliance on local authority inspections but nevertheless reflects the Welsh Government's commitment to improving the condition of rented properties and, more importantly, the health and well-being of those who live in them.
137. The approach adopted is similar to the "fitness for human habitation" provisions in the current Landlord and Tenant Act 1985 (but which do not generally apply due to the rent limits in the legislation not having been increased for several decades). Under the Bill, landlords must ensure that the property is fit for human habitation for the duration of the contract.
138. The Bill includes a power to make regulations which will be the basis for establishing whether a property is fit for human habitation. The intention is to base these regulations on the 29 hazard criteria under the Housing Health and Safety Rating System, which are shown for reference purposes below.

Table 1: Criteria for unfitness for human habitation

<ol style="list-style-type: none"> 1. Damp and mould growth 2. Excess cold 3. Excess heat 4. Asbestos; manufactured mineral fibres 5. Biocides (chemicals used to treat timber and/or mould growth) 6. Carbon monoxide and fuel combustion products 7. Lead 8. Radiation 9. Uncombusted fuel gas 10. Volatile organic compounds 11. Crowding and space 12. Entry by intruders 13. Lighting (including natural) 14. Noise 15. Domestic hygiene, pests and refuse 	<ol style="list-style-type: none"> 16. Food safety 17. Personal hygiene, sanitation and drainage 18. Water supply 19. Falls associated with baths etc. 20. Falling on level surfaces 21. Falling on stairs etc. 22. Falling between levels 23. Electrical hazards 24. Fire 25. Flames, hot surfaces etc. 26. Collision and entrapment 27. Explosions 28. Position and operability of amenities 29. Structural collapse and falling elements
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139. The intention of this element of the Bill is to update and bring back into force, without qualifying rent limits, the requirement for landlords to ensure their properties are fit for human habitation. Should the contract-holder believe the property does not comply with this requirement, he or she will be able to bring a claim against the landlord through the courts, in a similar way to how current claims for disrepair are made.

140. A landlord will be required to provide 24 hours' notice to enter the premises at any reasonable time to inspect the property or carry out maintenance or repairs. The landlord will not be liable for repairs in any part of the building to which, after making reasonable effort, they cannot get access.

Retaliatory eviction

(Key references in the Bill: Part 9, Chapter 12, section 213)

141. There is little doubt that the majority of landlords are responsible and maintain their properties in line with their obligations. However, a minority are less likely to take their obligations as seriously. A Recent Shelter Cymru report¹⁷ highlights these issues and focuses on the practice of 'retaliatory evictions' by a landlord. Similar concerns were raised in response to the Renting Homes White Paper.

142. It is therefore with some certainty we can say the current system of evictions under section 21 of the Housing Act 1988 has often been

abused by a minority of landlords. Rather than deal with repairs of which they have been notified, such landlords will tend to evict a tenant through a section 21 “no fault” notice.

143. According to Shelter Cymru, in 2012-13 there were 1,175 reported cases of disrepair. At present, Shelter Cymru advises their clients they may be making themselves vulnerable to eviction¹⁸ if they choose to challenge their landlord to address disrepair, either through the local authority or through a civil claim.
144. Retaliatory eviction is not just a problem for tenants; it also damages the image of the private rented sector and tenant confidence more generally. Good landlords wish to see this practice eliminated and would agree no contract-holder should be evicted simply for requesting a repair. However, conversely, no contract-holder should expect permanent security of tenure simply because they claim a relatively minor repair has not been attended to.
145. The provisions in the Bill introduce new, fairer rules around the use of a “no-fault” notice when it follows a request by the contract-holder for repairs or a complaint regarding fitness for human habitation. Where the court is satisfied the landlord has not complied with his or her obligations, and the landlord has issued the possession claim to avoid complying with them, it may treat the possession claim as discretionary, not mandatory and therefore may refuse to make an order for possession.

Prohibited Conduct

(Key references in the Bill: Part 5, Chapter 5 and Schedule 7)

146. Issues such as anti-social behaviour and domestic abuse have a significant impact on the lives of individuals and communities, affecting people’s safety, their health and well-being and their overall quality of life. While some rental agreements include restrictions on behaviour, such as playing loud music, they are varied and inconsistent. The Bill will make a “prohibited conduct term” a mandatory requirement in all occupation contracts.
147. Figures show that, between 2007 and 2012, there were on average 137 evictions due to anti-social behaviour each year¹⁹. This is a significant number of people who lose their home for reasons that could often be prevented. They often require the assistance of a number of organisations to help them find alternative accommodation, which stretches those services. Setting out a prohibited conduct term clearly within every contract, with the consequences of breaching this term clearly explained, will help to reduce anti-social behaviour and so result in fewer evictions.

148. Anti-social behaviour was also one of the major concerns of both landlords and tenants expressed during the consultation. Landlords often find the issue difficult to address, particularly private landlords and there was confusion around the processes involved.
149. Likewise, many tenants and other residents who live nearby feel the issue is not adequately addressed by landlords who they consider allow instances of anti-social behaviour to continue far too long. Community landlords do have an obligation to take action if a tenant, a member of their family or a visitor behaves in an anti-social way. It is fair to say, however, that this is not always seen to be as effective as many would wish.
150. The prohibited conduct term must be included in every contract, and there is no scope for the term to be amended by the landlord or contract-holder. The prohibited conduct term sets out the types of behaviour, whether committed or threatened, that would result in a breach of the contract. In summary, these are:
- Conduct capable of causing nuisance or annoyance to a person living in the property or in the locality;
 - Conduct capable of causing nuisance or annoyance to a person engaged in lawful activity in the property or in the locality;
 - Conduct capable of causing nuisance or annoyance to the landlord or a person acting for the landlord in carrying out the landlord's housing management functions;
 - Using the property for criminal purposes; and
 - To allow, incite or encourage another person to behave in the ways described above.
151. Breaching the term may trigger possession action in the normal way, except that proceedings can start on the same day the landlord gives notice. This is necessary where the landlord has to deal with serious instances of anti-social behaviour.
152. The objective of this element of the legislation is to strike the right balance – a better balance - between the contract-holder, the landlord and the community. Making the consequences of unacceptable behaviour clear at the outset of renting a property is an important step towards reducing incidences of anti-social behaviour and, wherever possible, preventing it in the first place. However, sometimes, a swift response is required to address the problem and the Bill provides for this.
153. Of course, where possible the encouragement of contract-holders to improve their behaviour is preferable to eviction. Similar to current arrangements, the Bill allows a landlord to seek an order from the court to impose a standard contract in place of a secure contract for a 12 month probation period (extendable to 18 months). At the end of this period the contract will automatically revert back to a secure contract.

Should the contract-holder's conduct not improved during the probation period, the landlord may commence possession proceedings in accordance with the terms of the standard contract.

154. Domestic abuse also falls within the scope of the prohibited conduct term, and guidance will emphasise this. While policy is focused is on preventing domestic abuse in the first place, if it does occur it is important victims receive the help they need. One of the problems with the current law as it applies to joint tenancies is that it often results in the victims of abuse having to end his or her tenancy in order for the landlord to evict the perpetrator. There is very strong support from stakeholders, including the police, for reversing this situation.
155. The more flexible approach to joint contracts under the Bill will therefore enable only the perpetrator of domestic abuse to be evicted. This would potentially allow the victim and any children to be able to continue to occupy the property. The provision complements the Welsh Government's Gender-based Violence, Domestic Abuse and Sexual Violence Bill.

Supported housing

(Key references in the Bill: Part 8, Chapter 6 and Schedule 2, part 5)

156. The Bill recognises the specific needs of people who live in supported housing and the providers of such accommodation. There are many types of supported housing, which are home to some of the most vulnerable people. It is also fair to say, when an individual needs to be temporarily excluded in order to protect other residents and staff, supported housing providers are at the very least testing the boundaries of current law. The Bill will establish, for the first time, a legal framework for supported housing. This recognises the particular challenges faced but also ensures residents of supported accommodation cannot be left indefinitely in an unjustifiably insecure situation.
157. Accommodation is considered to be supported accommodation for the purposes of the Bill if:
- It is provided by a community landlord or registered charity
 - The landlord provides support services to any person occupying the premises.
 - There is a connection between the provision of the support services and the provision of the accommodation.
158. Support services may include:
- Support in controlling/overcoming addiction
 - Support in finding employment or alternate accommodation
 - Support for someone who finds it difficult to live independently because of age, health or any other reason

- Support that includes provision of advice, training, guidance and counselling
159. Many people living in supported housing are resident for less than six months. This is very often sufficient time to assess and address the individuals' needs, enabling them to move on to longer-term accommodation. Given the large turnover of residents, and the greater likelihood of instability in the initial weeks and months, it is not considered practical to require occupation contracts to be issued at the outset. Therefore, the Bill excludes supported housing providers from the requirement to issue an occupation contract where the accommodation is intended to be for six months or less.
160. After six months, an individual becomes entitled to a "supported standard contract". This contract is the same as a standard contract, with the exception that it provides the landlord with two additional powers:
- Temporary exclusion – under which the landlord is able to require the contract-holder to leave the accommodation for up to 48 hours, three times in any six-month period; and
 - Mobility – under which the landlord can re-locate an individual within a building, perhaps to separate two residents who are in conflict.
161. However, if the landlord does not feel an individual would be able to sustain a supported standard contract, then the landlord may apply to the local authority to extend the initial six-month period. The landlord must provide details of this intention to the resident at least four weeks before the end of the initial period. The local authority may accept or reject the application. If it accepts an application, it may only extend the period for three months for each application. The extension arrangement offers both landlord and resident a longer period to address any behavioural or other issues.
162. As indicated above, very short term accommodation where the right to occupy is 24 hours or less at a time, such as night-shelters, is entirely excluded from the scope of the Bill.

Contracts for 16 and 17 year olds

(Key references in the Bill: Part 10, Chapter 1)

163. The current law means that a person has to be at least 18 to hold a tenancy in his or her own right. This causes difficulties, for example for local authorities in providing accommodation to this age group. The responses to the White Paper consultation supported the law being changed in this regard.
164. The Bill provides 16 or 17 year olds with the same right to an occupation contract as those aged 18 and over. The Bill does not

remove any existing rights of 16 and 17 year olds, nor any obligation a local authority may have to them under existing legislation, such as the Children Act 1989 and the new homelessness legislation which will come into effect through the Housing (Wales) Act 2014.

165. In his response to the Renting Homes White Paper, the Children's Commissioner emphasised the importance of the changes being understood by those with responsibility for supporting vulnerable families and young people including, for example, Families First teams, and social workers working with families, looked-after children and care leavers, and by Youth Offending Teams. By consolidating the existing complex set of laws and by simplifying it with just two types of contracts, the intention is to reduce the confusion that exists among landlords, tenants and the public and third sector organisations that support them. We consider this will help to address the Commissioner's concerns and go further by addressing the numerous different forms of tenancies and licences that currently exist.

Contract conversion

(Key references in the Bill: Part 10, Chapter 3)

166. The Bill provides for all existing residential tenancies and licences covered by its provisions to convert to the appropriate form of occupation contract on a specific date. Terms in any existing tenancy or licence which do not conflict with the relevant fundamental terms will continue to have effect under the occupation contract to which the tenancy or licence will have converted. Similarly, any arrears under an existing tenancy or licence will continue under the converted contract.
167. New tenancies or licenses issued on or after this date will take the form of an occupation contract, and contract-holders will be entitled to a written statement of their contract after two weeks of the date of conversion.
168. For converted contracts a period of six months will be allowed for the issuing of written contracts. This will also allow for the issuing of contracts to be incorporated into the ongoing engagement between landlord and tenant. The legal requirement is for the landlord to issue the written statement, not for the statement to be signed and returned by the contract-holder.

4. Consultation

169. In 2012, in the Housing White Paper, the Welsh Government announced its plans to develop new legislation to improve the arrangements for renting a home. It cited the Law Commission's work and explained it would be the foundation for the proposed legislation. As stated earlier, the Law Commission's work itself was the subject of extensive consultation.
170. The proposals brought forward in this Bill have been subject to a programme of consultation and engagement with stakeholders over the last three years. The programme comprised:
- (i) Formal consultation on published documents;;
 - (ii) Stakeholder engagement events across Wales;;
 - (iii) Information materials to communicate the proposals; and
 - (iv) Regular meetings with stakeholders.
171. In early 2013, the Law Commission published the report "Renting Homes in Wales"²⁰ The report updated the Commission's original proposals and considered issues arising from their proposed implementation in Wales. the
172. In May 2013, the Welsh Government published a White Paper "Renting Homes: A better way for Wales"²¹ setting out proposals for the legislation.
173. During the consultation period, the proposals were presented at three Welsh Government events in North, Mid and South Wales. These were accompanied by twenty other stakeholder events involving tenants and representative groups, community landlords, private landlords and a variety of third sector organisations that work in and around the field of housing. In all, more than 1,000 people listened to the proposals and took part in discussions.
174. The consultation on the White Paper, which ended on 16 August 2013, attracted over 170 responses. Overall, there was strong support for the proposals. The results are summarised in the table below.

Table 2: Overall levels of agreement or disagreement with key elements of proposals in “Renting Homes – A Better Way for Wales”

Question	Yes (%)	No (%)	Number of responses
Do you support our proposals for changing the legal framework for renting a home?	95	5	110
Do you agree that the standard contract should be based on the current assured shorthold tenancy?	91	9	100
Do you support the proposals in relation to each of the following issues:			
a) Addressing the anti-social behaviour of some households	95	5	96
b) Dealing with domestic abuse	90	10	97
c) A more flexible approach to joint tenancies	94	6	94
d) Abandonment of the property by a tenant	97	3	93
e) Renting by young people	75	25	83
f) Standardising succession rights	92	8	85
g) Standardising eviction for rent arrears	75	25	84
h) Requiring landlords to ensure there are no Category 1 hazards under the Housing Health & Safety Rating System	91	9	96
i) Abolishing the six-month moratorium on ‘no fault’ evictions	84	16	82
j) Establishing a legal framework for supported housing	90	10	71
k) Bringing housing association Rent Act tenancies within the Renting Homes framework	88	12	69

Source: Renting Homes White Paper (2013): Response to consultation

175. There was a consensus amongst those consulted that the reform of tenure law is necessary and would be a positive development. Comments suggested that reform is necessary in order to ensure that there is a single set of social occupation rights in Wales and to avoid scope for confusion. The transfer of housing stock from local authorities to new housing associations and the effects of switching between the two types of tenancies was also mentioned. It was pointed out that tenants of local authorities have slightly different rights from tenants of housing associations and there is difficulty in justifying the differences. Clear rights and simpler arrangements are needed.
176. In July 2014, the opportunity was taken to undertake another public consultation, this time on the format of the model contracts, which are a core feature of the Bill, and the approach to associated guidance²². The model contracts will set out the fundamental and supplementary terms

applying to the various occupation contracts, as well as allowing space for insertion of the key matters and any additional terms.

177. Six consultation events were held at various locations around Wales. The events considered the “look” and “feel” of the model contract, how well the information is presented, and how easily it is understood.
178. The public consultation ended on 14 October 2014. 128 responses were received. The main points to emerge were:
 - 89 per cent felt that the ‘Key Matters’ document was clearly laid out and easy to understand;
 - 77 per cent support the ability to issue the contract and any notices required electronically;
 - 69 per cent felt the layout and format of the Model Contract was easy to understand;
 - 86 per cent felt the ‘Summary of the Model Contract’ was helpful in explaining what the sections of the contract mean in practice.
179. In addition to the consultations, the Welsh Government has undertaken two surveys; a survey of private landlords and a survey of people who rent their homes.
180. The [Private Sector Landlord survey](#) was conducted by the Welsh Government in July 2014²³. A total of 530 responses were received. The purpose of the survey was to obtain up to date information on landlords’ views and practices for renting in the private sector. The main findings of the survey were:
 - 74 per cent seek to rent their property for longer than six months;
 - Only 2 per cent of landlords prefer to rent their property for less than six months;;
 - 47 per cent of landlords said the six-month moratorium means they are currently less likely to rent to those they considered “higher risk” tenants; and
 - 98 per cent of landlords issued a written contract to tenants.
181. The [Wales Omnibus Survey](#)²⁴ was based on responses from a sample of 364 tenants, the main findings were:
 - 48 per cent of people living in the private rented sector had been in their current accommodation for one year or less;
 - At least 53 per cent of those surveyed were unable to identify correctly the type of agreement under which they rented their home;;
 - 66 per cent of tenants had no input into the terms of their tenancy agreement; and

- Almost 50 per cent of tenants had no knowledge of the succession rights that applied to their home.
182. In addition to the actions outlined above, bi-monthly stakeholder group meetings have taken place since late 2011. The stakeholder group representatives have provided valuable, and much appreciated, input on a number of policy issues. Their input to developing and building upon the Law Commission's proposals for supported housing and helping develop the Welsh Government's policy on fitness for human habitation and retaliatory eviction has been particularly helpful.

5. Power to make subordinate legislation

183. The Bill contains provisions to make subordinate legislation. The table on the following pages sets out, in relation to each provision in the Bill:

- (i) The person upon whom, or the body upon which, the power is conferred.
- (ii) The form in which the power is to be exercised.
- (iii) The appropriateness of the delegated power.
- (iv) The applied procedure; that is, whether it is “affirmative”, “negative”, or “no procedure”, together with reasons why it is considered appropriate.

184. The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when the proposals have been formalised.

Table 3: Summary of powers to make subordinate legislation for provisions in the Bill.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 9(6)	Welsh Ministers	Regulations	Provides the Welsh Ministers with the flexibility to amend the list of authorities or bodies that might be a “community landlord” to reflect any future changes in housing practice. This could include bodies that might in future offer secure contracts.	Affirmative	Changes to the operation of the definition of “community landlord” will impact on the application of ‘standard’ and ‘secure’ contracts. Affirmative procedure is appropriate as regulations may substantially affect provisions of the Bill.
Section 22(1)	Welsh Ministers	Regulations	Provides flexibility as to the determination of ‘fundamental provisions’ and the degree to which landlords and tenants can agree to exclude or vary these. This allows flexibility to adapt in response to future legislation and housing practice.	Negative unless making changes to the Renting Homes (Wales) Act in which case, affirmative.	The detail of these regulations will be minor detail in light of the overall legislative regime. The express power to amend the Act available under this section is subject to affirmative procedure.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 22(2)	Welsh Ministers	Regulations	Provides flexibility as to the degree to which landlords and tenants can agree to exclude or vary 'fundamental provisions'. This allows flexibility to adapt in response to future legislation and housing practice.	Negative unless making changes to the Renting Homes (Wales) Act in which case, affirmative.	The detail of these regulations will be minor detail in light of the overall legislative regime. The express power to amend the Act available under this section is subject to affirmative procedure.
Section 23(1)	Welsh Ministers	Regulations	Provides flexibility as to the determination of 'supplementary provisions' to allow consideration of future changes following statutory consultation.	Negative	The determination of 'supplementary provisions' may vary from time to time and will be subject to statutory consultation as set out in section 23(2).
Section 29(1)	Welsh Ministers	Regulations	Enables the Welsh Ministers to prescribe 'model contracts' and is suitable for delegated powers as it will allow flexibility in the variation of the content of contracts which will vary from time to time and will need to include a high level of detail which would otherwise encumber the Bill.	Negative	Prescribes technical matters of detail which may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 32(4)	Welsh Ministers	Regulations	Allows the Welsh Ministers to specify explanatory information which must be contained in written statements. Such information will vary from time to time and be technical in nature.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 45(3)	Welsh Ministers	Regulations	Allows the Welsh Ministers to specify what information is sufficient to comply with section 45 on deposit schemes. This will allow information to be varied swiftly if there are changes in legislation and housing practice.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 56	Welsh Ministers	Regulations	This power enables the Welsh Ministers to amend section 55. This will allow the definition of prohibited conduct to be swiftly updated and so ensure any new forms of anti-social behaviour, domestic abuse or other negative behaviours are captured by the definition.	Affirmative	Power enables the amendment of primary legislation.
Section 68	Welsh Ministers	Regulations	Allows the variation of time periods for the purposes of sections 66 and 67 to reflect future changes to legislation and housing practice.	Affirmative	Prescribes technical matters of detail which may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 94	Welsh Ministers	Regulations	Allows the Welsh Ministers to set matters or circumstances to consider in determining whether premises are fit for human habitation. The regulations will be relatively minor in detail in relation to the overall legislative scheme on human habitation contained in the Bill.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 112	Welsh Ministers	Regulations	Allows the Welsh Ministers to specify periods of time in relation to secure contract “withdrawal notices” under section 111. Suitable for delegated powers as will be technical in nature and may vary in response to future changes to legislation and housing practice.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 131	Welsh Ministers	Regulations	Allows the Welsh Ministers to specify periods of time in relation to periodic standard contract “withdrawal notices” under section 130. Suitable for delegated powers as will be technical in nature and may vary from time to time.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 199(5)	Welsh Ministers	Regulations	Allows the Welsh Ministers to specify the procedure to be followed in relation to a landlord’s review under the section. Suitable for delegated powers as will be technical in nature.	Negative	Prescribes technical matters of detail which may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 217(1)	Welsh Ministers	Regulations	Enables the Welsh Ministers to make provision relating to the safeguarding and delivering of property obtained on the possession of an abandoned property under section 216. Suitable for delegated powers as will be technical in nature and flexibility required to respond to future changes in housing practice.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 219	Welsh Ministers	Regulations	Allows the Welsh Ministers to amend relevant periods of time in relation to abandonment under sections 216 and 218. This will allow flexibility to respond to changes in legislation and housing practice.	Affirmative	Prescribes technical matters of detail which may change from time to time.
Section 225	Welsh Ministers	Regulations	Allows the Welsh Ministers to amend relevant periods of time in relation to the exclusion of joint contract-holders under sections 221, 222, 223, and 224. This will allow flexibility to respond to changes in legislation and housing practice.	Affirmative	Prescribes technical matters of detail which may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 233(3)	Welsh Ministers	Regulations	Enables the Welsh Ministers to prescribe the form for notices and documents required or authorised under the Bill. This is appropriate for delegated powers as it prescribes technical details that may vary from time to time.	Negative	Prescribes technical matters of detail which may change from time to time.
Section 252(1)	Welsh Ministers	Regulations	Allows the Welsh Ministers to make supplemental, incidental, consequential, transitory, transitional or saving provision.	Negative unless making changes to primary legislation in which case, affirmative.	Affirmative procedure is appropriate where regulations amend primary legislation. Negative procedure is appropriate for those regulations which make technical provisions.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 253(2)	Welsh Ministers	Regulations	Allows the Welsh Ministers to make consequential amendments to, and modifications, repeals and revocations of, an enactment other than a provision of this Act.	Affirmative.	<p>Affirmative procedure is appropriate where regulations amend primary legislation</p> <p>Negative procedure is appropriate for other regulations which make technical provision only and are appropriate for combining with other negative procedure powers.</p>
Section 254(2)	Welsh Ministers	Order	Suitable for delegated powers because this provision enables the Welsh Ministers to provide for commencement of the Bill.	No procedure	These orders relate to commencement and are technical in nature.
Schedule 2 Paragraph 15(10)	Welsh Ministers	Regulations	This enables the Welsh Ministers to make provision relating to paragraph 15(5) (which prevents landlords from giving notice of extension without a local authority's consent) and in particular the procedure for obtaining consent.	Negative	Prescribes technical matters of detail which may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Schedule 2 Paragraph 17	Welsh Ministers	Regulations	Allows the Welsh Ministers to amend Schedule 2. This will allow flexibility to respond to changes in legislation and housing practice.	Affirmative	Power allows for the amendment of primary legislation (the Bill itself) so affirmative procedure is appropriate.
Schedule 3 Paragraph 10(2)	Welsh Ministers	Regulations	Allows the Welsh Ministers to prescribe the meaning of “designated course” for the purposes of this paragraph. This requires flexibility to adapt to future changes and practices.	Negative	Prescribes technical matters of detail which may change from time to time.
Schedule 3 Paragraph 15(3)	Welsh Ministers	Regulations	Allows the Welsh Ministers to make regulations on the determination of “key workers” for the purposes of this paragraph. This requires flexibility to adapt to future changes and practices.	Negative	Prescribes technical matters of detail which may change from time to time.
Schedule 3 Paragraph 17	Welsh Ministers	Regulations	Allows the Welsh Ministers to amend Schedule 3. This will allow flexibility to respond to changes in legislation and housing practice.	Affirmative	Power allows for the amendment of primary legislation (the Bill itself) so affirmative procedure is appropriate.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Schedule 4 Paragraph 3(7)	Welsh Ministers	Regulations	Allows the Welsh Ministers to amend the time in which a notice of extension must be given to a contract-holder, and provides that the power in section 253 includes power to make consequential amendments to Schedule 4. These provisions allow for flexibility and their operation may need amending from time to time.	Affirmative	Procedure reflects the potential effect of varying the time period and the possibility of amending Schedule 4 to the Bill.
Schedule 4 Paragraph 4(7)	Welsh Ministers	Regulations	Allows the Welsh Ministers to prescribe the procedure to be followed in connection with a review under this paragraph. Suitable for delegated powers as will be technical in nature.	Negative	Prescribes technical matters of detail which may change from time to time.
Schedule 5 Paragraph 1(6)	Welsh Ministers	Regulations	Allows the Welsh Ministers to impose powers and duties on scheme administrators. Suitable for delegated powers as the nature of these functions and responsibilities will change according to the nature of the deposit schemes created.	Negative	The regulations will set functions in accordance with the overarching principles contained in the legislative scheme and may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Schedule 7 Paragraph 4(7)	Welsh Ministers	Regulations	Allows the Welsh Ministers to amend the time in which a notice of extension must be given to a contract-holder in the probation period, and provides that the power in section 253 includes power to consequentially amend Schedule 7.	Affirmative	The use of the affirmative procedure for making regulations under Schedule 7(4)(7) reflects the potential effect of varying the period of notice to a contract-holder in respect of extending the probation period and, more significantly, the possibility of making consequential amendments to the entirety of Schedule 7. The scope to amend sub-paragraph (2) and make consequential amendments to Schedule 7 means the affirmative procedure is considered appropriate.
Schedule 7 Paragraph 5(7)	Welsh Ministers	Regulations	Allows the Welsh Ministers to prescribe the procedure to be followed in connection with a review under this paragraph. Suitable for delegated powers as will be technical in nature.	Negative	Prescribes technical matters of detail which may change from time to time.

Section or Schedule:	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Schedule 11 Paragraph 16(2)	Welsh Ministers	Regulations	The Welsh Ministers must make provision in relation to rent assessment following variation of a converted contract. Regulations will be technical in nature and are may need variation from time to time and so are suitable for delegated powers.	Negative	Prescribes technical matters of detail which may change from time to time.

6. Regulatory Impact Assessment

- 185. A Regulatory Impact Assessment has been completed in accordance with Standing Order 26.6(vi) and is set out in Chapter 7.
- 186. A competition assessment and assessments of specific impacts are provided in Section 8.
- 187. There are no specific provisions in the Bill which charge expenditure to the Welsh Consolidated Fund

Part 2 – Regulatory Impact Assessment

7. Options, costs and benefits

188. This Chapter sets out the options considered. It describes each in turn, estimating the additional cost, if any, of each option, and summarising the benefits.
189. There are three options:
- Option 1: Continue with current legislation for social and private sector tenancies with no changes
 - Option 2: Improving existing arrangements for private sector tenancies and action to encourage better practice
 - Option 3: Consolidation and reform of existing legislation for social and private sector tenancies
190. The costs estimated are the additional costs for the main stakeholders. The costs and benefits associated with each option have been assessed over a five year period. Where appropriate, the costs and benefits are presented in Present Value terms using a discount rate of 3.5 per cent. This is in line with guidance in HM Treasury's Green Book.

Option 1- Continue with current housing law for social and private rented tenancies, with no changes

Overview

191. The current law for renting a home has been in place for many years. Change upon change has been made to it. As a result, it is widely acknowledged as being extremely complex and difficult to understand. This lack of understanding leads to problems and disputes between landlords and tenants. This is borne out by the findings of our [surveys](#).^{25,26}
192. The survey of landlords revealed that less than half thought their current tenants had a good understanding of their rights and obligations. When tenants were asked similar questions, the results demonstrated similar lack of understanding in several areas including succession rights and possession processes.
193. Under this option which is, in effect, the “do nothing” option, the law would continue as it is with no change. The complexity of current housing law for renting a home would remain, as would the inequalities;

for example, the different grounds for possession that exist between tenants of local authorities and those of housing associations.

194. Renting a home is one of the most important undertakings a person may ever make, yet many have little understanding of what can happen if problems arise. Figures from Her Majesty's Courts and Tribunal Service show that in 2010, 2011 and 2012, possession proceedings were running at between 4,000 and 5,000 cases each year.
195. The reality of losing a home can be traumatic and have long-lasting and wide-reaching impacts on individuals and families. A better understanding of rights and obligations can help to prevent this.
196. Some may argue that the current law works and there is no need for change. However, this option would not bring the improvements that are needed. From the outset of action to consider the need for new legislation, there has been consensus amongst stakeholders that doing nothing is not a realistic option. There is an overwhelming call for, and case for, reform of the rental sector.

Costs of Option 1

197. There are no additional costs associated with this option. However, if the rental sector continues to increase, the costs associated with potentially avoidable and unnecessary disputes would continue and could possibly increase in the future.
198. Currently, an estimated £1,644,000 is spent on court actions (based upon court cases per year), including court issue fees, warrant fees and additional court applications. These figures represent a large amount of expenditure simply to remove tenants from their home. Housing associations and local authorities account for over £1 million of these court fees..
199. With the expected growth of the rental market, and with the complexity of current law for renting a home, it is not unreasonable to expect these figures to rise proportionately.

Benefits of Option 1

200. Under this option, no action would be taken to improve the current legislation as a whole or in respect of doing more to address issues such as anti-social behaviour, domestic abuse and difficulties arising from the unilateral termination of joint tenancies. The weaknesses in the current legislation would remain, as would the complexity. In light of this, the option is dismissed.

Option 2: Improving existing arrangements for private sector tenancies and action to encourage good practice.

Overview

201. Some may argue that the current law works and with some adjustment, could work better and thus should continue to be used. Some respondents to our consultation suggested that any changes should be confined to the social rented sector leaving the private sector largely untouched. The social sector, however, already has a fairly high degree of self-regulation in which the situation for tenants is somewhat better than for tenants in the private rented sector.
202. Consideration was given to what could be achieved simply by way of further guidance on current tenancies and encouragement for better partnership working with tenant and landlord groups. By far the most effective approach would be to improve practices in the private rented sector and achieve a greater consistency across landlords.
203. Achieving this via current legislation would require a voluntary approach. It would need to achieve behavioural change in those landlords who do not conform to good or even, in some cases, reasonable practice. Action that would need to be taken would include providing better guidance around the current tenancy law and promoting better partnership working between tenant and landlord groups to identify and disseminate good practice. This could include the development of a model agreement for private landlords to use as the basis for their tenancies on a voluntary basis.
204. Such a scheme could go some way to providing much needed consistency for tenants in the private rented sector. The development work would be undertaken by the Welsh Government in partnership with stakeholders. The creation of a model assured shorthold tenancy agreement alone would provide standardisation for over 90 per cent tenants in the private rented sector.
205. However, as with any voluntary scheme, the take-up cannot be guaranteed, and it is often only those that already have a more responsible attitude and better or reasonable practices that become involved in such schemes. Voluntary schemes, therefore, often fail to influence, and achieve behaviour change in, the desired group(s). The Landlords Accreditation Wales scheme, which has been running for several years, is a good example. It has helped to improve practices in the private rented sector but involvement was limited to around 2,000 registered members, whereas the total number of private landlords is estimated to be between 70,000 and 130,000. The lack of reach of such a voluntary scheme was one of the reasons behind Part 1 of the Housing (Wales) Act 2014, which will create a mandatory landlord registration and licensing scheme.

206. If the majority of landlords fail to engage in a voluntary approach, and there is good evidence to show that many do not do so, the ability to achieve the desired improvements will be very limited. The effect of promoting a model tenancy agreement would be marginal. Furthermore, the numerous rental agreements that are currently in place present difficulties for agreeing a consistent model. It is accepted, particularly among legal experts, that substantial “root and branch” reform of housing law is the only real way to achieve real change. The Law Commission’s work described the weaknesses with the current law and set out very clearly the improvements that are needed.
207. As a result of change upon change to date, the law is already extremely complex. Further “tweaking” around the edges will result in even more complexity. What is really needed is a new, consolidated piece of legislation that builds on the solid foundations of the Law Commission’s recommendations and which is updated and tailored to the needs and circumstances of people who rent their homes in Wales.

Costs of Option 2

208. The following pages set out the estimated costs, and the calculations behind them, for each of the main groups of stakeholders.

Welsh Government

209. The implementation of a voluntary scheme would require the Welsh Government to develop and issue model agreements, based on current law, for use by landlords and tenants. This would mean, in practice, standardising the many different agreements that currently exist. Funding would be required to reach as many private landlords as possible, notably those who do not engage in landlord fora around Wales and who are not members of any of the bodies that represent the sector. Over and above reaching them, the need would be to inform, persuade and incentivise private landlords to improve their practice on setting up and operating tenancies.
210. The cost of encouraging voluntary action and greater take-up of good practice would fall on the Welsh Government. The cost of implementing any changes under current law would fall on the Welsh Government and other stakeholders.
211. Some costs would stem from the need to develop and disseminate information on voluntary changes to current practices, and then continuing to promote behavioural change to achieve the desired improvements across the sector. A reasonable but modest estimate is £35,000 in year one (2016-17) and £20,000 in subsequent years to maintain and, hopefully, increase the adoption of the voluntary model agreements by private landlords.

212. Some training and development activity for landlords would be sensible as part of promoting any changes based on a voluntary approach, for example on the content and operation of the model agreement. Such training would be required for the first year and probably the second as the new system settles in and becomes the 'norm'. The total estimated cost for training is £20,000 in each of the first two years
213. Training events for landlords would be held at specific locations throughout Wales ensuring as broad a coverage as possible. This would likely require 5 events; for example, North, South, East, West, and Mid Wales. The cost of such events has been explored and is estimated at around £3,000. The remainder of the estimated cost for training would be used for Welsh Government to provide and/or support bespoke training or training on request, for example, by representative bodies.
214. In addition, funding would be needed to support local action, working with landlords. While budgets are limited, it is reasonable to estimate that £220,000 a year would be required. This is based on an average of £10,000 per local authority area. The cost of this local action should steadily reduce as the awareness levels amongst landlords and contract-holders rise. This annual cost would be incurred from 2016-17.
215. Some funding would need to be available to evaluate the impact and any benefits of the specific changes made, and the strand of action to encourage voluntary adoption of good practice. The cost of this evaluation activity is estimated to be £50,000, spread over the period 2016-17 to 2018-19.
216. The cost of creating the model agreement(s) is based on a typical policy development team. This would comprise a proportion of the working time of policy officers at different levels and legal professionals. The cost is estimated to be £38,000 per model agreement (assuming three agreements). Monitoring of each of these model agreements, ensuring they are up-to-date in the legal sense, would cost an estimated £12,000 per year. Costs in the table below reflect the creation of monitoring of these agreements.

Table 4: Estimated costs of Option 2 to the Welsh Government

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Policy and legal staff	0	190,000	60,000	60,000	60,000
Communications	0	35,000	20,000	20,000	20,000
Training and development	0	20,000	20,000	0	0
Support for local action	0	220,000	220,000	220,000	220,000
Evaluation	0	10,000	25,000	15,000	0
Total cost	0	475,000	345,000	315,000	300,000

Third sector organisations

217. Third sector organisations vary considerably in role, size and function, which makes it difficult to calculate a total cost figure. Instead, the assessment has considered the impact on one of the main providers of advice on housing matters as a means of identifying the main elements of additional cost. In overall terms, discussion with stakeholders within the sector and work undertaken as part of costing the Bill indicate the impact of this option on the advice sector being minimal.
218. Typical costs for an advice agency of changes to law or developments around it include staff awareness-raising and training, new advice documents, and updated information on the information systems for advisers. Under this option for a voluntary model agreement, no change to the underpinning law will take place. This will not result in a requirement for systems to change or any significant updating of information and databases, certainly no more than would occur as a result of other changes in other fields on which advice is given.
219. Training on the model agreement would be limited, requiring only familiarisation with the contract layout/content. There would be no need for training around changes to the legislation and as such this training for a provider the size of Citizens Advice is not expected to exceed £16,000. For most other providers it would be significantly less.

Table 5: Nominal cost of Option 2 to a third sector provider

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Training and development	0	16,000	0	0	0
Total costs	0	16,000	0	0	0

220. The estimate is based on the nominal costs of a person attending a half-day training course, which would be the type of awareness-raising support that the Welsh Government would provide. Attendees would then cascade the information to others in their organisation.

Legal professionals

221. Private landlords may, at some point, obtain legal advice on matters related to their landlord functions. Typically, this occurs when problems occur, when cases are being taken against a tenant or alternatively, the defence of a case brought by a tenant.
222. Legal cases would occur irrespective of the system in place and the introduction of voluntary model agreements. With the introduction of model agreements, albeit on a voluntary basis, legal professionals would wish to devote some time to familiarising themselves with the

development as a core part of their business. The time required will be relatively short under this option as there would be no change to the law itself. Consequently, a half day is considered to be a reasonable estimate of the time required for legal professionals at various levels to become familiar with the developments.

223. The following estimate draws on Law Society statistics²⁷ and additional research around salary levels. There are 522 solicitor firms in Wales, employing approximately 2,600 solicitors. Earnings can vary widely depending on seniority, role and experience. The estimates are based on figures provided by the Law Society and additional research into solicitors' pay bands.

Table 6: Estimated cost of Option 2 to legal professionals

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Familiarisation	173,000	0	0	0	0
Total cost	173,000	0	0	0	0

Landlords

224. There would be some additional costs to landlords as a result of this option. However there may be potential for some savings in the longer term due to fewer disputes as a result of an improved written agreement being in place.
225. In order to be complete and transparent about the costs, this assessment recognises that if landlords choose to adopt the model agreement, some time would be spent familiarising themselves with the content of the agreement. Familiarisation would enable landlords to understand the content at the required level and to manage a tenancy more effectively.
226. The precise number of private landlords in Wales is unknown. The Explanatory Memorandum prepared as part of the development of the Housing (Wales) Act estimated there were between 70,000 and 130,000 landlords. Drawing on the most recent information from stakeholders, a more accurate estimate of around 80,000 landlords is used for the assessment of costs in this Regulatory Impact Assessment.
227. Assuming 80,000 landlords, with 0.5 day per landlord at a daily rate of £96 (based on UK national average earnings²⁸) the maximum total cost would be £3,840,000 a year. The calculation allows for any differences in the daily earnings of landlords. It assumes a 100 per cent take up of the scheme by private landlords although, as earlier comments

highlighted, the take-up of a voluntary scheme would not be anywhere near this.

228. A more realistic cost assessment would assume a significantly lower landlord take up. Based on stakeholder engagement and the experiences of the voluntary Landlord Accreditation Wales scheme, the expected take up of a voluntary approach would be around 2,500 landlords in the first year and around 1,000 per year thereafter. Based on this, the cost is estimated at £120,000 in the first year and £48,000 in each of the following years

Table 7: Estimated cost of Option 2 to private landlords

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Familiarisation	120,000	48,000	48,000	48,000	48,000
Total cost	120,000	48,000	48,000	48,000	48,000

Benefits of Option 2

229. The option has some benefits but its dependence on voluntary action means they would be limited. Promotion of the model agreement would reach a relatively small proportion of landlords but could be expected to achieve some behavioural change in some. Where the model agreement is adopted, this should result in greater clarity on rights and responsibilities and so lead to fewer disputes.
230. However, there would be distinct disadvantages. This option would not achieve the overall policy objectives, which include, for example, reducing the problems that occur between landlords and tenants, achieving a more flexible and thus effective rented housing system, setting out clear terms in relation to anti-social behaviour, helping victims of domestic abuse, and greater equality for the tenants of different landlords.
231. It is accepted by legal experts that a substantial “root and branch” reform of housing law is the only real way to provide real change, which makes a positive difference to the lives of people who, at one or more points during their life, may need to rent their home. Simply promoting better practice under the current law will not address the problems inherent in that law, nor will it achieve the broader policy objectives that are sought. After careful consideration, this option was dismissed.

Option 3: Consolidation and reform of existing legislation for social and private sector tenancies

Overview

232. The common theme in the commentary on the first two options is the considerable body of current law for renting a property, its complexity, and its weaknesses. It is complex for even the most experienced lawyer, let alone the lay person, which includes the majority of landlords and tenants.
233. In considering the improvements needed in the field of housing and how the housing system could work more effectively, the Welsh Government considered very carefully the evidence base and the views of stakeholders. The stakeholders extended beyond the field of housing to the legal profession, the judiciary and consumer groups such as Citizens Advice. Overall, the view is that there is a compelling case for radical reform, which applies to both the social and private rented sector.
234. The solid evidence, notably the fundamental work undertaken by the Law Commission but not implemented by the UK Government, supports this.
235. One of the National Assembly for Wales' Committees reported one of the reasons for obtaining the Housing and Local Government Legislative Competence Order in January 2010²⁹ would be the possibility of pursuing the implementation of the Law Commission's Renting Homes recommendations. However, the Legislative Competence Order only gave the Assembly the competence to take forward the recommendations in part, since competence did not extend to private sector tenancies at that time.
236. The Welsh Government was unable to act to implement the Law Commission's recommendations until 2011, as only then did the National Assembly gain the necessary primary law-making powers. Taking into account the additional powers and a strategic review of policy changes needed, a programme of action was put in place to explore in detail the issues and options. This resulted in the Housing White Paper (2012)³⁰, which set out an ambitious programme of legislative and non-legislative developments.

Costs of Option 3

237. The following pages set out the estimated costs, and the calculations behind them, for each of the main groups of stakeholders.

Welsh Government

238. The introduction of such a significant piece of legislation must be backed up by investment in action to oversee the preparation for change and its implementation, to raise awareness of the changes, and to evaluate the impact and benefits of the changes.
239. Some costs would stem from the need to communicate changes to the law and further communications to change behaviour to the standard desired. A reasonable estimate is £100,000 in year one (2016-17) leading up to the change in law, and £20,000 in each of the following four years to continue to raise awareness and to promote good practice. A variety of methods would be used, with action tailored to the best means of reaching the target audiences. It would include online, social media and more traditional communications channels.
240. As in Option 2, some training and development activity would be sensible prior to implementing the new legislation, and for a programme of work to be undertaken to encourage change. These actions could be carried out together in the form of one or more sessions delivered at a number of locations across Wales. These are similar events to those defined and quoted under option 2. The cost of this training is estimated to be £30,000 in 2016-17 and £20,000 in 2017-18. To account for the conversion process in the first year and the number of landlords affected, there would be a need for greater capacity in these events for the first year, which is reflected in the higher figure for 2016-17.
241. Funding would be required to review progress on the implementation of the new legislation and to assess and impacts and benefits. This would be undertaken by commissioning an independent two-year evaluation project, with an estimated cost of £50,000. The timing of the study, from baseline stage through to final reporting, would probably span three financial years and the costs in the table below reflect this.
242. Following Royal Assent, the Welsh Government would need to bring together a number of work streams prior to implementation of this Act. This will include work on raising awareness of the Act, preparing and introducing the required subordinate legislation, developing model contracts and running required consultations on implementation. This will require a medium to large policy team. Based upon typical policy development teams formed for other legislative developments, and comprising policy officers at different levels and legal professionals, the estimated cost for year one would be £333,000. In the second and subsequent years, this would reduce to £184,000, This reflects the

reduced work required after the contracts have been created and when only monitoring and updating is then necessary

Table 8: Estimated costs of Option 3 to the Welsh Government

	2015-16 5-16£	2016-17 6-17£	2017-18 7-18£	2018-19 2018-19£	2019-20 2019-20£
Policy and legal staff	0	333,000	184,000	184,000	184,000
Communications	0	100,000	20,000	20,000	20,000
Training and development	0	30,000	20,000	0	0
Evaluation	0	10,000	25,000	15,000	0
Total cost	0	473,000	249,000	219,000	204,000

Landlords

243. The main costs to landlords; that is community landlords and private landlords, comprise two things. First, the time required to familiarise themselves with the new legislation and second, the cost of converting existing contracts to the new occupation contracts.
244. Eleven local authorities still own their own housing stock and there are 35 Registered Social Landlords. There are also 41 “de minimus” housing associations each with, on average, 23 units of accommodation.
245. As stated earlier, the precise number of private landlords in Wales is unknown. The Explanatory Memorandum, which was prepared as part of the development of Part 1 of the Housing (Wales) Act (regulation of private rented housing), used an estimate of between 70,000 and 130,000 landlords. Drawing on intelligence obtained since then, this assessment, as that for Option 2, uses the figure of 80,000 landlords
246. The main actions that landlords would need to take are familiarisation with the new law, which would be a staff time requirement for bodies including local authorities and housing associations and, more than likely, personal time in the case of private landlords. In addition, it is possible that some may obtain legal advice. In local authorities, it is assumed the advice would be provided in-house.

Private Landlords

247. The costs for private landlords are based on allowing one day to become familiar to the level required. This is considered reasonable to enable landlords to issue contracts and to understand the content to the required level of knowledge and understanding. The cost per day has been calculated on the basis of one day at a daily rate of £96, which is based on UK national average earnings³¹. For the 80,000 landlords, this equates to a cost of approximately £7,680,000. This transitional cost would be incurred in 2016-17.

248. The Bill consolidates and simplifies existing law, which is relevant to the time needed for familiarisation. Many of the core processes for renting a home are similar to current arrangements and this helps to minimise additional costs.
249. The nature and level of contact between landlords and their tenants varies, particularly between the social and private rented sectors. Community landlords may not engage on a face to face basis with tenants as regularly as private landlords (or letting agents) but also use other forms of communication, such as tenant newsletters, to maintain contact. This is relevant to the approach taken to communications, particularly around the conversion of existing agreements to the appropriate occupation contract that will apply under the Bill.
250. Landlords will be required, within six months of this legislation coming into force, to issue converted contracts to all contract-holders; that is, their existing tenants. The six months allowed for this means some contracts would end naturally during the period. Where a tenant leaves during this period, the landlord would have no need to issue a converted contract and would simply issue an occupation contract to the new contract-holder.
251. The [Private Sector Landlord survey](#)³² revealed that around 15 per cent of current private tenants had been resident for less than 6 months. This proportion of contract-holders would not require a converted contract in the six-month period, having moved on and been replaced by new tenants.
252. The costs for landlords in converting existing contracts are based on the cost of printing a copy of a contract (£0.60), administration and processing each contract (£2.00), and postage (£1.17). The administration and process cost is based on 15 minutes per contract and average UK earnings. The postage cost is calculated on the basis of Royal Mail non-business postage rates for a large letter.
253. The total cost of issuing contracts is based on an estimate of 190,000 private rented properties³³ (less 15 per cent to take account of tenants not requiring a converted contract). On this basis, the total cost to private landlords of issuing the converted contracts is estimated to be approximately £608,855 (£96,900 for printing, £323,000 for administration and £188,955 for postage). This transitional cost would be incurred in 2016-17.
254. Following implementation of this legislation there will be a requirement to issue written contracts to all contract-holders. The Welsh Government landlord survey has shown that 98 per cent of landlords already issue written contracts. Based upon the same research, the average contract length in the private sector can be calculated to be 2.5 years. This means around 1,600 landlords will be required to issue

contracts where previously they had not done so. Assuming an average of 1.6 contracts per landlord, then based on the costs used for contract conversion this equates to £8960 per year. If it is assumed the survey results over-estimate the number of contracts currently being issued by landlords, for each additional contract needing to be issued the cost would be £8.75.

255. The introduction of model contracts will reduce, and in many cases remove, the need for landlords to seek legal advice around contracts. Landlords can be assured that when a model contract is used, it is correct in the legal sense. This would be a saving from the new legislation. It is not possible to quantify with any degree of accuracy the saving at this point in time but it would be assessed as part of post-implementation evaluation study.
256. Given private landlords would probably wish to keep costs to a minimum, many can be expected to seek information from websites and other sources of information. However, there is a possibility that some private landlords will wish to seek legal advice when converting a contract. It is reasonable to expect no more than an hour of legal advice would be needed in these instances. For the purposes of this assessment, it is assumed that around one in five landlords (16,000) would pursue such advice.
257. Investigations into solicitor fees reveal that many offer free initial consultation but that where charged, fees for an hour are in the region of £150. This equates to a cost of £2,400,000. Again, this transitional cost would be incurred in 2016-17.

Table 9: Estimated costs of Option 3 to Private landlords

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Familiarisation	0	7,680,000	0	0	0
Legal advice	0	2,400,000	0	0	0
Conversion to Model Contract	0	608,855	8960	8960	8960
Total cost	0	10,688,855	8960	8960	8960

Community Landlords

258. Local authority landlords and housing associations require a different approach as the level of knowledge of housing law is typically required to be higher due to the issues encountered. For familiarisation purposes, 2.5 days for a proportion of housing officers has been assumed.

259. This reflects the level of support, advice and possession-related action they will be required to perform. The time and cost of an average of five housing officers per community landlord have been factored into the calculations. These are based on equivalent Welsh Government grade). The cost for this familiarisation for each community landlord is calculated as £1,230 x 46 (housing associations and stock retaining local authorities) It is assumed the learning would then be shared with colleagues.
260. Housing associations that are classed as “de minimus” will require the scheme or centre managers to undertake one day’s familiarisation. This has been calculated at an equivalent Welsh Government management grade. The total cost for the 41 “de minimus” housing associations is estimated to be £12,300. The total for familiarisation cost for all community landlords therefore is £69,000.
261. Some community landlords may wish to obtain legal advice with regard to the initial formation, or conversion, of contracts. Local authorities will have this facility in-house. Lawyers within local authorities would require time for familiarisation. The cost of £18,000 in year one has been calculated on the basis of one lawyer for each of the eleven authorities that still own their own housing stock. The estimate, which is based on the equivalent Welsh Government grade, works out at £1,636 per lawyer.
262. Although they will receive information and briefing on the new legislation from the Welsh Government and from Community Housing Cymru, their representative body, it is possible some housing associations may choose to seek independent legal advice on the formulation of their contracts. For the sake of completeness, the estimate of £35,000 in the first year is based on the cost if all associations, including the “de minimus” organisations, were to obtain advice.
263. It is difficult to be precise in calculating the cost. The cost of legal advice may vary by provider and according to the size of the housing association and the breadth and depth of advice required. Following discussions with legal representatives and stakeholders, it is expected that up to £500 for small housing associations and up to £1,000 for the larger associations is a reasonable figure. On the basis that good quality information and briefing is provided by the Welsh Government and Community Housing Cymru, the actual cost would be expected to be considerably less.
264. Calculating the contract conversion costs for community landlords is slightly different than those for private landlords as the engagement processes are different. During the six months allowed for issuing converted contracts, it is highly likely they would issue at least one of their regular communications to tenants. During stakeholder

engagement, representatives of housing associations confirmed that in a twelve-month period the following was typical:

- Each tenant will receive three newsletters;
- The tenant will receive quarterly rent statements;
- Tenant Liaison Forums are held three times a year; and
- A tenant conference will be held once a year.

265. It is reasonable to conclude that housing associations' responsible management of expenditure would prompt them to use regular communications as a means to issue converted contracts. This would present a timely and cost-effective means of issuing converted contracts in the course of their normal business rather than as a special, one-off, exercise. It is recognised issuing converted contracts with other communications activity would incur additional cost such as print, administration and additional postage costs so these have been factored into calculations.
266. As part of preparing for implementation, the Welsh Government would undertake an extensive programme of awareness-raising events throughout Wales, in conjunction with representative bodies and other relevant stakeholders. This would be supplemented by information, detailed guidance and publicity materials for both landlords and contract-holders. This information could be used in tenant liaison forums and other meetings with tenants or their representatives.
267. The estimated total cost for community landlords (£538,356) in converting existing contracts is calculated on the basis of them being distributed with mail already being sent to contract-holders. The cost of printing a copy of the converted contract is estimated to be £0.60. Administration and processing each contract is estimated to be £1.53, based upon equivalent Welsh Government grade. The additional cost of postage is calculated on the Royal Mail business postage rates for a large letter that accommodates the additional weight of the converted contract (£0.25).
268. The total costs for converting existing contracts were calculated based on an estimate of 226,200 social rented properties³⁴. This equates to £2.38 per household.

Table 10: Estimated costs of Option 3 to community landlords

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Familiarisation: local authority lawyer.	0	18,000	0	0	0
Familiarisation: Community Landlords	0	69,000	0	0	0
Legal advice – all housing associations.		35,000			
Contract conversion for community landlord	0	538,356	0	0	0
Total cost	0	660,356	0	0	0

Third sector organisations

269. Advice and information on renting a property is delivered in numerous ways. It is dominated by online provision of which there is a considerable volume although the quality varies. Services include third sector organisations, which deliver personal advice and information by telephone or in person at advice centres. Citizens Advice and Shelter Cymru are two prominent providers. It also includes representative bodies, such as private landlord representative organisations, which update their members as part of their day-to-day functions.
270. There are numerous providers but for the purposes of this exercise, the assessment of costs focuses on the prominent providers, which provide assistance to people who rent their homes from local authorities, housing associations and private landlords. Advice and information often comes to the fore when things go wrong and the tenant is seeking help.
271. A general point to emerge during the Bill's development was that stakeholders providing advice, information and assistance/guidance or representative services did not consider the legislation in Option 3 would carry significant additional costs. The majority considered that such changes would be similar to, and absorbable into, their normal operating costs. They regularly update their information for their services as and when the law changes, whether as a result of new legislation changes or case law.
272. Costs considered include changes these stakeholders would need to make to adjust, including staff training, new advice documents, and updated information on the information systems used by advisers. Although stakeholders did not indicate any significant impacts, efforts have been made to try and assess notional costs.
273. There are twenty Citizens Advice Bureau offices in Wales delivering services from over 375 community locations with more than 790 volunteers and 440 paid staff. In 2013-14, they helped over 134,000 people with 337,000 problems. There were over 1 million visits in

Wales to the Citizens Advice Bureau website and 42,000 telephone consultations were undertaken. Housing related enquiries were 5 per cent of the total enquiries.

274. The Citizens Advice online public resource “Adviceguide” is continuously updated to ensure content is current, as is “Advisor.net”, the online tool for advisors. Content is created remotely by writers working in specialist areas of advice and guidance, with specific workers ensuring content is appropriate for the devolved nations.
275. Citizens Advice estimates that the cost of updating its current information for the Bill is a one-off cost of approximately £45,000, inclusive of translation. This would result in new content and links within the web-based resources to ensure housing advice and information is correct for Wales and reflects the changes in the law.
276. Citizens Advice estimates the cost of developing and delivering training at £23,000. This is based on a day’s training course being developed and then delivered throughout Wales, with attendees then cascading the information to others in the organisation. Given the nature and scale of its operation, the costs are considered to be the highest costs a provider would occur. The table below illustrates the cost and its main components.

Table 11: Nominal cost of Option 3 to a large third sector provider

	2015-16	2016-17	2017-18	2018-19	2019-20
	£	£	£	£	£
Training and development	0	23,000	0	0	0
Updating information	0	45,000	0	0	0
Total costs	0	68,000	0	0	0

277. The above illustrates the cost of the legislation for one large provider. This figure would increase depending on the number of providers that needed to do the same. In reality, however, the costs for other, smaller, providers would be markedly less. The costs are nominal and are likely to be absorbed with the day-to-day running costs of the organisation(s). If a provider was not updating its information with changes arising from the Bill once enacted, it would not necessarily be saving money. The time would be utilised on updating its information on other matters. The cost of holding awareness-raising sessions would be met by the Welsh Government

Legal professionals

278. Legal professionals update their knowledge of changes in law as part of their day to day business and through continuing professional

development activity. The cost in the table below is based on one day per solicitor.

279. The estimate draws on the same information as that used for the estimate for Option 2. There are 522 solicitors firms in Wales comprising approximately 2,600 solicitors. The estimates are based on figures provided by the Law Society and additional research into solicitors' pay.

Table 12: Estimated costs of Option 3 to legal professionals

	2015-16 £	2016-17 £	2017-18 £	2018-19 £	2019-20 £
Familiarisation	346,000	0	0	0	0
Total cost	346,000	0	0	0	0

Assessment of other costs

280. Many of the provisions within the Bill clarify and simplify the existing law, which carry with them no additional costs. The Bill includes a number of new elements for which assessing any additional costs is more difficult. For completeness, the following paragraphs set out the conclusions of consideration of any additional costs that stem from these individual requirements.

Tenants

281. When new contracts are issued, tenants are usually encouraged to read their tenancy agreement to ensure they understand their rights and responsibilities. The same is expected when, as proposed in the Bill, existing agreements will be converted. The guidance to be produced on the new occupation contracts will help in this. Many tenants will take time to read the information provided and some may contact their landlord with a query.
282. It has therefore not been possible to estimate any costs due to the difficulties outlined. The costs are not considered to be actual costs to the individual but a nominal cost attached to the period of time they would devote to reading information.

Other Government Departments

283. Careful consideration has been given to the wider impacts of the Bill. The provisions of the Bill will pose additional issues for Her Majesty's Courts and Tribunal Service, such as claims relating to fitness for human habitation. These may require some adjustments to the process and systems for considering cases, which may or may not incur additional costs. That said, all this has to be balanced against the

overall intended effects of the Bill, one of which is to reduce the number of disputes that occur as a result of a lack of understanding or confusion on the rights and obligations of landlords and tenants.

284. There are currently around 4,500 possessions claims each year in Wales, which fall within the scope of the legislative matters covered by the Bill. Details of the grounds for each possession are not available, which makes it difficult to estimate the precise impacts. Therefore it has not been possible to estimate any costs due to the difficulties outlined. . It is recognised that there could be some additional costs but there will also be savings. Overall, the conclusion is that the Bill will be cost neutral.

Fitness for human habitation

285. The introduction of a requirement for a landlord to ensure a property is fit for human habitation underpins existing law. Landlords already have a repairing and maintenance obligation to current tenants. There is confidence that community landlords meet their obligations and in most respects, such as by achieving the Welsh Housing Quality Standard for example, go much further. Experience gives less grounds for confidence in landlords in the private sector, given quality in this sector can be poorer and, in some cases, unacceptable.
286. Requirements under current legislation mean landlords should already be providing accommodation that is of a reasonable standard. However some stakeholders, such as Shelter Cymru, would argue this requirement is all too often not met by some landlords. Lack of awareness of rights and obligations is seen as a key contributory factor. There is presently no requirement for a landlord to issue a written contract and, where a contract is issued, there is no requirement for it to contain the landlord's repairing obligations. This does little to provide current tenants with any clarity on their landlord's obligations and enables some landlords to avoid these obligations too easily. However, taken together these factors mean many instances of poor practice remain hidden and so quantifying the true extent of this issue is extremely difficult.
287. The Bill seeks to address the problem by raising the awareness of current rights and obligations, thereby raising the incidence of compliance with current requirements, rather than by placing a higher expectation on landlords overall.
288. Setting out within the provisions of the Bill a requirement of fitness for human habitation that is based upon the current Housing Health and Safety Rating System (HHSRS) will not place an additional burden on those landlords already renting property that meets HHSRS requirements. For example, the guidance on fitness for human habitation will be based on existing guidance issued in relation to the HHSRS. Landlords who provide poor and, in some cases, unsafe

accommodation can already be forced to make improvements through existing law such as the powers available to local authorities under the Housing Act 2004.

289. The Bill therefore makes existing rights and obligations of landlords and contract-holders clearer. As a result of ensuring existing requirements are applied more consistently, there may be some additional costs for those landlords who have chosen not to comply with current requirements previously. These costs, however, are not an additional direct cost that can be attributed to the Bill. They stem instead from the unwillingness of a landlord to provide accommodation that is line with current requirements. While a small minority of landlords may choose to exit the sector rather than improve their management practices, this will ultimately benefit those seeking to rent a home, as well as the majority of landlords who are complying with current requirements.

Removal of Ground 8 possession

290. Some housing associations maintain that removing Ground 8 will increase rent arrears. There is little, if any, evidence to support such a claim, particularly as the arrears of local authority landlords, which do not have access to Ground 8, can sometimes be lower than those of housing associations. The statistics quoted earlier in this document show that very limited use is currently made of Ground 8. This means its removal will have very little impact in practice. The proactive approach that housing associations have developed towards identifying and managing arrears has a greater impact on reducing the level of arrears, and is in line with the requirements of Part 2 of the Housing (Wales) Act 2014, which is geared to preventing homelessness.

Joint contract-holders

291. The provisions in relation to joint contract-holders will provide a more efficient and flexible approach to these types of occupation contracts. The ability for one contract-holder to leave an occupation contract without ending the contract for all contract-holders will save time and resources for landlords in not having to draw up a new tenancy. Given the current situation where a landlord could choose not to grant a new tenancy to the remaining occupiers, this provision will also help to prevent homelessness and the costs associated with it. However, the many variables at play in this scenario, and the difficulty in determining the actual costs, means that providing a robust assessment of impacts is not possible. No significant additional costs or cost savings are envisaged from this element of the Bill.

Structural change within the private rented sector

292. The Bill's provisions are not expected to cause any structural change to the community landlord sector nor to the private rented sector. The

private rented sector is an increasingly important strand of housing supply. Some bodies representing private landlords have suggested that the Bill's provisions are bureaucratic and will cause considerable extra costs to private landlords, which will cause them to leave the sector. This is not accepted. The private rented sector does not have a particularly good reputation and is seen by some as a last resort if they cannot afford to buy a home.

293. Consideration is given to the concerns raised within the paragraphs below. However, it should be noted that notwithstanding the concerns raised there remains substantial support for the Bill across all sectors.
294. The one-off impact on landlords learning a new process was raised. However, it was also acknowledged that there is some overlap with existing processes and the requirements here are manageable. A further concern was the potential for 'additional' requirements on an ongoing basis. As with all new legislation, there will be a need to become familiar with the new processes required. An allowance for familiarisation has been factored into this impact assessment. However, the proposed approach does not place significant additional burdens on landlords on an ongoing basis.
295. It should also be noted that a core objective of the Law Commission was to create a clearer and simpler legal framework for renting a home, not a more burdensome or complex one. The need for reforms of the nature proposed by the Bill is also reflected in the very strong support for change evidenced in responses to the White Paper, including those of private landlords. The Renting Homes Bill and the associated guidance will provide a comprehensive source of information for landlords, all in one place. In addition, the free availability of model contracts issued by the Welsh Government will remove the need for landlords to source a rental agreement and any need to pay for such an agreement.
296. It is not considered, therefore, that the Bill places significant additional burdens or costs on landlords. Where any such instances have been identified, efforts have been made to address these. As previously mentioned all legislation requires a small adjustment period, which is reflected within this impact assessment. The proposals within the Bill will provide a clearer, more efficient and cost effective process for both landlord and contract-holder wishing to rent a home.
297. The provisions in Part 1 of the Housing (Wales) Act 2014 will improve the practices in the sector and the provisions in this Bill will further help to improve the arrangements for renting a home. There is a distinct possibility that a better understanding of the obligations of tenants and landlords will actually help to reduce the costs that can be incurred by landlords and tenants in addressing problems that can lead to disputes and legal action. Improving the private rented sector in this way could encourage new landlords to invest, thus helping to increase housing

supply. If the Bill is passed by the Assembly, this will be examined as part of the post implementation review.

Benefits of Option 3

298. Option 3 amounts to a significant change to the current law for renting a home which would bring with it considerable benefits for landlords and tenants. This is supported by consultation responses, stakeholder engagement and views that have been expressed on websites, including those used by the legal profession. The policy changes, and the provisions in the Bill that stem from them, have a very sound evidence base which is grounded in the work of the Law Commission.
299. The changes will bring greater clarity to what is now very complicated law by consolidating much of it into one new piece of legislation. This will aid understanding on the part of both landlords and tenants. A better understanding will reduce the prospect of disputes arising. Overall, this option is expected to improve significantly the contractual arrangements for renting a home.
300. A more prevention-oriented approach to housing-related anti-social behaviour, and the ability to deal with it if it does occur, will be the result of requiring the prohibited conduct term in every rental contract. It will ensure contract-holders are aware of their responsibilities to their neighbours and to their landlord. A clear and consistent approach to addressing anti-social behaviour across all occupation contracts will also help joint working between the police and landlords.
301. The prohibited conduct term will also cover domestic abuse. Currently, the victim of abuse usually has to end the tenancy for the landlord to evict the perpetrator, thereby risking homelessness. The proposals will end this practice, lessening some of the impact of domestic abuse on victims and their children.
302. A more flexible approach to joint tenancies will overcome the problem of tenants, sometimes vulnerable tenants, being at risk of homelessness by a landlord refusing to give them another tenancy in the event of a joint tenant ending the tenancy unilaterally. The proposals will address this and, at the same time, strengthen our commitment to preventing homelessness, which is in line with Part 2 of the Housing (Wales) Act 2014.
303. This Option will achieve equality for young people by enabling them to rent on the same basis as adults. It addresses the current problem where young people aged 16 and 17 are unable to rent a property on the same basis as those aged 18 and older. This tackles a current disadvantage for them in trying to find a home.
304. Option 3 will also bring equality to the arrangements for succeeding to a housing association or local authority tenancy following the death of

the tenant. It also takes account of situations where a carer has lived in a property for at least twelve months. This is particularly important in an ageing society where care and support for independent living is to be encouraged. It will provide reassurance for those volunteering to undertake care responsibilities.

305. Removing from housing association tenants the ground for mandatory eviction for serious rent arrears, known as “Ground 8”, will achieve equality with the tenants of local authorities. Equality is one of the Welsh Government’s principles and values.
306. Removing the “six-month moratorium” on courts issuing a possession order will not have the negative impact that might first appear. Where appropriate, such as local authorities discharging into the private sector the duty to secure accommodation for those in priority need, it will still be necessary to ensure a fixed term contract of at least six months is in place. However, removing it will benefit those looking only for a short-term let, which people sometimes need, and enable the wider benefits of the Bill to be extended to those with minimal protection at present, such as those in tied accommodation. This change will also encourage many more private landlords to rent to those they consider higher risk, thus providing a wider range of housing options to such groups.
307. Unaddressed disrepair carries a cost to individuals, to Government and to society. This includes the costs of treating mental and physical ill health, aside from the reduced contribution to the economy that such problems can cause. The total cost to society of dealing with these hazards across all sectors of Welsh housing, including long-term impacts on health, education and employment, has been estimated at around £168 million a year³⁵. These figures do not include the costs of dealing with the consequences of less serious hazards and other disrepair issues. This option will help to address this through a requirement for all properties to be fit for human habitation, and by restricting the practice of retaliatory eviction. The provisions will help to ensure that landlords maintain their properties as required and adhere to their responsibilities with regard to repair.
308. Based on discussions with stakeholders, it is expected Option 3 will help reduce the number of cases for possession that come before the courts. It is not possible to forecast with any degree of accuracy the cost savings that could result and this will be examined as part of the post implementation evaluation if the Bill is passed by the Assembly. However, as an example a reduction of, say, 10 per cent in court cases is estimated to represent a saving of £164,000 a year to the sector.
309. This Option would not only require landlords to issue a written contract but would make it straightforward for them to do so. A landlord opting to use the freely available model contract will benefit by having a contract that is legally correct, by saving fees through reducing the need for a

solicitor, and by having the opportunity of using a single contract across all their properties (depending on the nature of occupation).

310. Finally, someone renting a home will benefit by having a contract they know is legally correct, is applied consistently to different properties they may rent over time, is fair, and provides security against unfit conditions and unfair eviction. As well as benefiting from greater clarity on their rights and responsibilities under the contract, the greater consistency across the sector will enable access to more detailed support and guidance if problems do arise.

Preferred Option

311. Taking everything into account, Option 3 best addresses the priorities for change in the arrangements for renting a home in Wales. It will help make the overall housing system more effective and efficient. Given the increasing role that renting plays in today's housing system, this is very important. However, and perhaps most importantly, it will make a positive difference to people's lives, carrying with it benefits on equality issues, and for people's health well-being. For these reasons, Option 3 is the preferred Option.

8. Competition Assessment

312. The changes proposed by the Bill are being applied to all landlords that rent out a property as a home. The broad application of the proposals means no changes to the overall structure or size of the private rented sector are expected. Furthermore, the provisions will apply to all landlords. No change is expected in terms of competitiveness for businesses, the voluntary sector and charities. There is therefore no risk of a detrimental effect on competition.

Specific Impacts

313. As part of this regulatory impact assessment, a number of separate impact assessments have been completed. These are summarised below and are available online to view or can be provided on request.

Equality Impact Assessment

314. The Welsh Government is required to comply with the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011, and the Human Rights Act 1998 and the European Convention on Human Rights. The equality impact assessment on the Renting Homes Bill found the impact of this legislation to be positive.
315. The Bill will provide the same rights and responsibilities to persons aged 16 or 17 to those currently applying to anyone aged 18+ when renting a home. There are many instances when a person aged 16 or 17 may be seeking to rent a property but is unable to do so on the same basis as those aged 18 and over. The law as it stands creates unnecessary difficulties for a young person who has had to leave the family home or succeeds to a property following death of a parent. The Bill addresses this and at the same time does not remove any obligation of care a local authority may have to a young person
316. The Bill contains provision relating to repossessing properties adapted for a disabled person where there is no longer an occupier requiring the adaptation. This is subject to suitable alternative accommodation being provided to the current contract-holder. The ability to be able to reallocate specially adapted properties can help make better use of social housing stock to meet the housing needs of disabled people.
317. The requirement to provide, after six months, a supported standard contract to those living in supported housing will provide for a better level of security than is currently available to many.
318. The Bill's provisions will bring benefits for the victims of domestic abuse, and will particularly benefit women, against whom the majority of domestic abuse is committed.

319. Removing the ability of a housing association to issue a Ground 8 notice for possession for serious rent arrears will achieve equality between housing association tenants and tenants of local authorities, who are not subject to such a ground for possession currently.

Rights of the Child

320. The Rights of Children and Young People Measure 2011 requires the Welsh Ministers to give due regard to the United Nations Convention on the Rights of the Child in the development of all legislation and policy.
321. The purpose of the legislation is reform of the structure of current renting arrangements between a landlord and tenant. It is not anticipated there will be any negative impacts on children. In fact, the impacts are considered to be positive.
322. The Bill will provide the same rights to persons aged 16 or 17 to those currently provided to anyone aged 18+ when renting a home. There are many instances when a younger person of 16 or 17 may be seeking to rent a property but is unable to do so under the current system. The law as it stands creates unnecessary difficulties for a young person who has had to leave the family home or succeeds to a property following death of a parent. The Bill will address this
323. The simpler legislative framework is expected to reduce the confusion that currently exists on the different tenancy and licence arrangements. This will make it easier for those providing housing advice and supporting vulnerable children and their families, to give accurate and consistent advice when needed. This will also help to reduce the number of disputes between landlords and tenants, which can also impact negatively on children in households.
324. The Bill's provisions to help the victims of domestic abuse are expected to carry benefits for children too. It will potentially allow the victim of domestic abuse and any children to remain in the property while removing the perpetrator. The opportunity for the victim to stay in their home, with the perpetrator leaving, would reduce the disruption in the lives of children that can happen if they have to move home and live in temporary accommodation. Such changes can have an adverse effect on a child's development and education. The Bill enables children to have the best opportunity to continue living in their home and remain at school.

Impact on the Welsh language

325. The Welsh Government's *Welsh Language Scheme* requires that an assessment of the impacts of the Bill on the Welsh language be carried out. The proposals will apply across the housing sector and will change the fundamentals of renting a home for all people who are resident in Wales and those from outside Wales who seek to rent a home in

Wales. The documentation and guidance emanating from this Bill, such as the model contracts for example, will be produced bilingually. This assessment has shown there is no impact upon the Welsh language as a result of this legislation.

Sustainable development

- 326. As part of the policy impact screening for the Bill, consideration has been given to the five headline indicators in the Welsh Government's Sustainable Development Scheme.
- 327. The introduction of provision for both fitness for human habitation and retaliatory eviction is expected to have, over time, some positive impacts on the quality of accommodation in the private sector. This will carry with it benefits for the health and well being of tenants and their families as a result of improvements to housing and/or prompt action taken on repairs and/or hazards. This contributes to the social well being element of sustainable development.
- 328. In addition, the inclusion of a prohibited conduct term in all occupation contracts will help to tackle anti-social behaviour. This too can help to counter the negative impact of anti-social behaviour on people, including their overall quality of life. It should also help to develop stronger communities, which contributes to the “sustainable society” element of sustainable development.

Impact on privacy

- 329. The Bill does not produce any new requirements relating to privacy or the sharing of information. The privacy impact assessment undertaken has found that there will be no impact as a consequence of this legislation.

Rural proofing

- 330. The rural proofing screening assessment has shown there is no negative impact as a result of this legislation. The Bill aims to address the confusion and difficulties around current rental agreements. This is equally relevant to homes which are rented by people in rural areas. As such, the impacts – and benefits – will be no different for rural areas to those in urban areas.

Health and well being

- 331. Housing is a significant determinant of people's health and well being. It affects people in many different ways, both direct and indirect. The provisions in the Bill that are relevant to people's health and well being are those relating to the physical condition of homes, behaviours in and around the home, and the relationship between landlord and tenant.

332. Overall, the Bill is expected to have a positive effect on health. The “fitness for human habitation” requirement will help improve the physical condition of properties. This will help to prevent illnesses such as those related to damp, cold, and mould, and contribute to a safer home environment. The provisions designed to help the victims of domestic abuse have a significant health protection dimension and thus are positive impacts in the sense of physical health and safety. They will also help prevent the significant negative impact on victims and any children by enabling them to stay in their home and avoid potential homelessness.
333. The contractual relationship between landlord and tenant is satisfactory in the majority of cases. However, it can go wrong in a variety of ways ranging from tensions to dispute and total collapse. Such cases can impact on people’s mental health and well-being at different levels. These include worry and stress, which can sometimes extend to more serious mental health problems. In time, mental illness can impact on people’s physical health. In most cases it is the tenant who is affected by such problems, but such cases can also have a negative impact on landlords. One of the core aims of the Bill is to ensure both landlords and tenants understand their responsibilities and obligations, thus improving the contractual relationship and reducing the problems that can occur. This is expected to have a positive impact on people’s mental and health well-being.

Impact on the voluntary sector

334. The regulatory impact assessment contained within this explanatory memorandum has highlighted some potential impacts on advice organisations from the Bill, insofar as they would be advising on new legislation instead of current legislation. As set out earlier in this document, the impacts are not considered to be significant and largely fall under the day-to-day business activities of the agencies and other organisations which provide advice. There are considered to be no additional impacts upon the voluntary sector.

9. Post implementation review

335. The Renting Homes (Wales) Bill is part of the Welsh Government's commitment to do more to help people meet their housing needs. Subject to the Bill being passed by the National Assembly for Wales, the implementation of the new legislation will be subject to monitoring and evaluation...
336. An independent evaluation project will be commissioned for a two or possibly three year period. It will commence prior to the new legislation coming into effect, which will allow relevant baseline information to be collated and future information needs identified. This will allow arrangements to be made to collect the required information from stakeholders in a systematic way throughout the evaluation study, and for additional research exercises e.g. sample surveys, to be undertaken...
337. The effectiveness of the legislation will be evaluated in a number of ways. The evaluation will include both process and impact evaluation. The process evaluation, which will be a more frequent element in the study, will consider the way in which landlords are implementing the legislation, identifying examples of good practice and what is working well. It will also consider any problems and difficulties encountered by all stakeholders so that action may be taken to resolve them at an early stage. The findings would be used to improve the adoption of the new legislation including, importantly, the use of the model contracts.
338. The impact evaluation will consider the impact(s) of the new legislation against the desired effects, which include simpler and clearer arrangements for renting a home, greater understanding of contract rights and responsibilities for both landlords and tenants, and whether this leads through to fewer disputes that require legal action to resolve.
339. The research design for the post-implementation evaluation will combine a variety of different research methods most suited to assessing its implementation and measuring the overall impacts of the legislation and specific elements of it. A programme of monitoring and evaluation activity will be developed to allow reporting one year after the legislation has been commenced and at appropriate points thereafter.
340. The evaluation will use both qualitative and quantitative methods. By way of some examples, the quantitative indicators may include the following:
- (i) Use of web-based information on the new legislation.
 - (ii) Downloads of model contracts for use by landlords.

- (iii) Landlords' knowledge of their rights and obligations (sample survey).
- (iv) Contract-holders' knowledge of their rights and obligations (sample survey).
- (v) Landlords' views and experiences of the new legislation (survey similar to that undertaken during the development of the Bill).)
- (vi) Contract-holders' views and experiences of the new legislation (survey similar to that undertaken during the development of the Bill)
- (vii) Level of requests for advice from agencies.
- (viii) Nature of requests for advice from agencies.
- (ix) Number of court cases.
- (x) Reason(s) for cases proceeding to court.

341. The precise data requirements would be determined after the Bill is passed as part of the arrangements for implementation. The above Information, and other information identified as relevant to the evaluation, would be compared and contrasted with the baseline data collected prior to the commencement of the new legislation.

Appendix A

The Competition Assessment

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Questions 1 to 3: the market

342. There are no private landlord's controlling 10% or more of the rental market in Wales.

Question 4: substantially different effect on firms

343. The cost of implementing the Renting Homes Bill is consistent throughout the sector. The cost will be directly related to the number of properties owned by a landlord, for example the cost arising from the requirement to provide converted contracts for each contract-holder. However, for each individual contract the costs are small (less than £10) and will have no impact upon competition.
344. Likewise, the requirement through this Bill to provide a written contract for all contract-holders does not have any adverse effect on any particular section of landlords. Welsh Government research shows that as many as 98 per cent of all landlords provide a written contract currently. Based upon the same research, the average contract length

in the private sector is around 2.5 years. This means the small percentage of landlords not currently issuing contracts will only be required to issue an additional contract once every 2.5 years on average (at a cost of £8.75)

Question 5: changes to market structure

- 345. The very basis of the proposals under Renting Homes is the need for a consistent and fair approach. This consistency extends to the contracts that are required to be issued and the processes to be followed. Every landlord will have equivalent rights and obligations under this legislation.
- 346. There will be impacts on the minority of landlords that currently rent homes that fall below the requirements of the Housing Health and Safety Rating System. The 'fitness for human habitation' obligation will help ensure more landlords meet current requirements. This does not, therefore, place new burdens on landlords but instead provides an additional mechanism to help ensure current requirements are adhered to.
- 347. For a very small number of landlords, the requirement to meet the fitness for human habitation or written contract requirements may mean they no longer wish to remain as landlords. Conversely, making the legal framework for renting clearer and providing model contracts can be expected to encourage new landlords to enter the market. Overall, however, any changes to market structure are considered to be minimal.

Questions 6 and 7: penalising new suppliers

- 348. Some extension will be provided for existing landlords to provide written occupation contracts to existing contract-holders as opposed to new contract-holders. This is to account for the number of written contracts that have to be issued in relation to existing tenancies. Therefore landlords will be allowed six months to provide existing contract-holders with a converted contract. In the case of new contracts issued following implementation all landlords will be required to provide written occupation contracts within two weeks.

Question 8: technological change

- 349. There are no impacts with regard to technology.

Question 9: restrictions on suppliers

- 350. There are no restrictions or impacts with regard to suppliers. The aim of these proposals is to provide clarity, consistency of approach and a better understanding of the rights and obligations of landlords and contract-holders. In fact, rather than adversely affecting competition

some case could be made for this Bill increasing fairness and competition. It is widely accepted, even amongst legal professionals, that the current system is long overdue for reform. Housing law has become over complex and difficult to navigate, even for experienced professionals.

351. The Bill will make 'model contracts' (provided by the Welsh Government) freely available for all landlords to use. This will remove uncertainty in the legality of current contracts and the expense of seeking legal advice. The clearer legal framework and accompanying guidance will help give landlords' confidence they are acting correctly and legally. This will help landlords of all sizes to avoid often expensive housing disputes, which can often adversely affect smaller landlords.

Annex 1 – Explanatory Notes

RENTING HOMES (WALES) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Renting Homes (Wales) Bill which was introduced into the National Assembly for Wales on 9 February 2015. They have been prepared by the Department of Local Government and Communities of the Welsh Government in order to assist the reader of the Bill. The Explanatory Notes should be read in conjunction with the Bill but are not part of it.

PART 1 - OVERVIEW OF ACT

Sections 1 to 6 – Introduction to, and overview of, Bill

2. Part 1 of the Bill provides an introduction to, and overview of, the Bill. Sections 1 to 4 introduce the key concepts in the Act (occupation contracts, community and private landlords, and fundamental and supplementary provisions). Sections 5 and 6 provide a guide to the structure, content and application of Parts 3 to 11 of the Bill.
3. As section 1 suggests, the Bill's primary purpose is to create a new system for the rental of homes which are situated in Wales. The new system is based on establishing two kinds of "occupation contract" which will be the legal bases of most agreements between landlords and people who rent their home. It will abolish most of the various forms of tenancies in existence before it comes into force so that the majority of people who rent their home in Wales, whether under a tenancy or licence (discussed below), will have either a "secure contract" or a "standard contract" with their landlord.

Tenancies and licences

4. Generally, people who live in a home they do not own do so under a tenancy or licence. A tenancy is a contract between two or more persons (a tenant or tenants and a landlord) under which the tenant lives in the home. The tenant (and people who live with him or her) does not have to share the premises with anyone else, because the tenant has an interest in the land which is

subject to the tenancy. Rent is payable by the tenant. A tenancy gives rights to, and imposes obligations on, both the tenant and the landlord.

5. A licence is also a contract between two or more persons (a licensee or licensees and a landlord). The licensee is allowed to live in the dwelling which is the subject of the licence. A key legal difference between a tenancy and licence is that a licensee does not have an interest in the relevant land, and in practice the main difference between a tenancy and a licence is that a licensee does not have the right to sole occupation of the home. So, for example, a lodger will usually be a licensee.
6. The Bill will not change this; a person who rents a home in Wales will rent it under a tenancy or licence. But in many respects that distinction will be less important in practice, because the Bill makes virtually no distinction between tenancies and licences.
7. In effect, the occupation contract, with all of its rights and obligations, will sit on top of the tenancy or licence with a view to helping the parties to the tenancy or licence to have clarity as to what their rights and obligations are, and what the other party's rights and obligations are, regardless of the legal basis for the occupation.
8. This means that, under the Bill, the key questions for a tenant or licensee will be:
 - a. whether or not they live in their home under an occupation contract, and
 - b. if so, what kind of occupation contract they have with their landlord.

Is a tenancy or licence an occupation contract?

9. This question will be resolved by reference to section 7 of the Bill, which describes the kinds of tenancies and licences that are occupation contracts, and to Schedule 2 to the Bill, which sets out various exceptions to section 7. (See the commentary on section 7 and Schedule 2 in these Notes)

If so, what kind of occupation contract is it?

10. This question can be resolved with reference to Chapter 2 of Part 2 of the Bill. The two main factors in answering this question are:
 - a. who the landlord is, and
 - b. what has been agreed between the tenant or licensee (referred to in the Bill as the "contract-holder") and the landlord.
11. As a general rule, though the Bill does provide for exceptions, an occupation contract made with a "community landlord" will be a "secure contract". "Community landlord" is defined in section 11; the main kinds of community landlord are local authorities, housing associations and other kinds of registered social landlord, and private registered providers of social housing.

A secure tenancy gives the strongest security of occupation (sometimes referred to as “security of tenure”) to the contract-holder.

12. Again as a general rule, subject to exceptions, an occupation contract made with a “private landlord” will be a “standard contract”. Any landlord who is not a community landlord is a private landlord for the purposes of the Bill.
13. Secure contracts are “periodic”; this means that they will roll from period to period (generally, from week to week or month to month). Standard contracts can be either periodic or made for a fixed term. Aside from differences relating to security of occupation, there are a range of differences between secure and standard contracts (and between periodic and fixed term standard contracts); these are set out throughout the Bill, and are considered in the section-by-section commentary in these Notes.

What are the terms of an occupation contract?

Fundamental provisions

14. The Bill establishes the concept of the “fundamental provision”. A fundamental provision is a provision of the Bill (generally a section in the Bill) which automatically becomes a term of an occupation contract to which it applies.
15. For example, section 45 (which concerns schemes for looking after deposits paid by contract-holders to landlords) is a fundamental provision of *all* occupation contracts. In practice, this means that every occupation contract between a landlord and a contract-holder will contain a term which is, in substance, identical to section 45.
16. A fundamental provision, once it is incorporated into an occupation contract, is referred to in the Bill as a “fundamental term” of the contract. A fundamental term of the contract must closely reflect the wording and terminology used in the fundamental provision of the Bill which it incorporates; section 33 sets out the limits of acceptable editorial changes.
17. Some fundamental provisions apply only to certain kinds of occupation contract; for example, section 113, which concerns the right to take on a lodger, applies only to secure contracts, and not to standard contracts. Schedule 1 to the Bill sets out the fundamental provisions which apply to each kind of occupation contract.
18. Landlords and contract-holders can agree not to have a particular fundamental provision in their contract (in other words, they can choose not to *incorporate* that provision). Or, they can agree to make changes to a fundamental provision. The Bill describes a change to a fundamental provision as a “modification”.
19. However, there are limitations on the ability to agree to modify, or not to incorporate, a fundamental provision. Firstly, any change must ultimately improve the position of the contract-holder (regardless of whether it improves, or worsens, the landlord’s position). Secondly the fundamental

provisions set out in section 22(3) must be incorporated as fundamental terms of every occupation contract they apply to, without changes (section 45, mentioned above, is one such fundamental provision).

20. Fundamental terms of an occupation contract (that is, the terms of the contract which incorporate fundamental provisions) can be changed once the contract has been made; the Bill describes a change to a fundamental term as a “variation”. However, there are limits to this, and those limits vary between secure contracts (see Chapter 2 of Part 5), periodic standard contracts (see Chapter 2 of Part 6) and fixed term standard contracts (see Chapter 2 of Part 7).

What are the terms of an occupation contract?

Supplementary provisions

21. Supplementary provisions are provisions set out in Regulations made by the Welsh Ministers under section 23 of the Bill. As with fundamental provisions, they are automatically incorporated as terms of all occupation contracts to which they apply. And, as with fundamental provisions, the contract-holder and landlord may agree not to incorporate a supplementary provision or to incorporate the provision with modifications (provided the Regulation which sets out the provision does not prohibit this).
22. There is no requirement that modification or omission of a supplementary term improves the position of the contract-holder; the only limit is that a change to a supplementary provision must not render the occupation contract incompatible with any relevant fundamental term of the contract.
23. Once a supplementary provision is incorporated into an occupation contract, it becomes a “supplementary term”. These can be changed once the contract is made; the Bill describes a change to a supplementary term as a “variation”. As with fundamental terms, there are limits on the ability to change supplementary terms, set out in Chapter 2 in each of Parts 5, 6 and 7.

What are the terms of an occupation contract?

Terms as to key matters and additional terms

24. The key matters relating to a contract are set out in sections 26 and 27, and concern things such as the address of the home, the amount of rent and so on. The contract will contain terms which address the key matters.
25. The additional terms of a contract are terms agreed between the landlord and the contract-holder relating to any other matters.

Where are the terms of an occupation contract set out?

26. The Bill, in section 31, requires the landlord to give the contract-holder a written statement of the occupation contract within two weeks of the date on which the contract-holder became entitled to live in the home (this date is referred to in the Bill as the “occupation date”). This means a contract can be formed and come into force before the contract-holder has been given the written statement. This reflects current housing and contract law, and is intended to facilitate the provision of housing as swiftly as possible. In

practice, it is likely that the written statement will often be given before, or concurrently with, the occupation date.

How is the Bill structured?

27. The Bill has 11 Parts. Some Parts are relevant to all occupation contracts, and some are relevant only to specific kinds of contract. As sections 5 and 6 set out, the Bill can be approached in the following way:
- a. Part 1 provides an overview of the Bill, intended to assist with navigation;
 - b. Part 2 concerns the determination of whether a person has an occupation contract with his or her landlord, and if so, what kind of occupation contract it is;
 - c. Part 3 applies to all occupation contracts, so will be relevant to everyone who rents their home under an occupation contract (it deals with a wide range of rights and obligations of contract-holders and landlords);
 - d. Part 4 concerns the duties of landlords in relation to repair and maintenance of dwellings – Chapter 2, which contains those duties, applies to all occupation contracts except fixed term standard contracts for a term of seven years or more, so in practice the key provisions in Part 4 will apply to most occupation contracts;
 - e. Part 5 applies only to secure contracts (and, by extension, is not relevant to standard contracts) – it addresses a range of miscellaneous issues;
 - f. Part 6 applies only to periodic standard contracts (and, by extension, is not relevant to secure contracts and fixed term standard contracts) – it addresses a range of miscellaneous issues;
 - g. Part 7 applies only to periodic standard contracts (and, by extension, is not relevant to secure contracts and periodic standard contracts) – it addresses a range of miscellaneous issues;
 - h. Part 8 applies only to supported standard contracts – these are standard contracts (either periodic or fixed term) which concern the provision of accommodation to people in need of particular kinds of help or assistance;
 - i. Part 9 concerns how occupation contracts can be brought to an end – various Chapters of this Part apply to all occupation contracts, but a number of Chapters apply only to certain kinds of contract (the table in section 146 provides an overview of Part 9);
 - j. finally, Parts 10 and 11 deal with a range of miscellaneous matters which are supplementary to the provision in the preceding Parts, or which concern the operation and interpretation of the Bill.

Schedule 1 - OVERVIEW OF FUNDAMENTAL PROVISIONS INCORPORATED AS TERMS OF OCCUPATION CONTRACTS

28. Schedule 1 lists in tabular form the fundamental provisions that apply to each type of occupation contract. Part 1 deals with secure contracts, Part 2 with periodic standard contracts and Part 3 with fixed term standard contracts.

PART 2 - OCCUPATION CONTRACTS AND LANDLORDS CHAPTER 1 - OCCUPATION CONTRACTS

Section 7 – Tenancies and licences that are occupation contracts

29. Section 7 sets out the basic proposition which underpins the Bill, and which is considered above in relation to Part 1; most tenancies and licences under which people rent their homes will be occupation contracts.
30. The effect of subsections (1) to (3) is that a tenancy or licence is an occupation contract if it allows at least one individual to occupy a dwelling as a home, and if someone is paying rent (or “other consideration”; for example, doing something equivalent to paying rent, such as providing a service to the landlord) in exchange for that individual’s right to live in the dwelling.
31. Schedule 2 sets out a number of exceptions and qualifications to the basic proposition in section 7.

SCHEDULE 2 - EXCEPTIONS TO SECTION 7

PART 1 - TENANCIES AND LICENCES NOT WITHIN SECTION 7 THAT ARE OCCUPATION CONTRACTS IF NOTICE IS GIVEN

Paragraph 1

32. A tenancy or licence which is made by a person (“person A”), but which allows a different person to live in the dwelling to which the tenancy or licence relates (such a person is described in paragraph 1 as a “beneficiary”), is not an occupation contract under section 7.
33. The same is true of a tenancy or licence where no rent or other consideration (for example work undertaken by the contract-holder as a form of rent) is payable.
34. But under paragraph 1, such a tenancy or licence can be an occupation contract if the landlord wishes. If so, the landlord must give notice stating that this is the case to the person with whom the tenancy or licence is made (which would be person A in relation to a tenancy or licence where the beneficiary will live in the dwelling).

Paragraph 2

35. Paragraph 2 applies to a tenancy or licence where a beneficiary lives in the dwelling, and the landlord has given notice under paragraph 1. Paragraph 2 is necessary because the Bill contains references to “contract-holders” (including in its “fundamental provisions” which will become terms of the occupation contract), as will regulations under the Bill (including in

“supplementary provisions” made by regulations, which will also become terms of the contract).

36. Those provisions give rights to, and impose obligations on, the contract-holder, which in these circumstances will be person A. It may be necessary for those provisions to be treated in practice as applying to the beneficiary, to ensure the smooth day-to-day operation of the contract.

PART 2 - TENANCIES AND LICENCES WITHIN SECTION 7 THAT ARE NOT OCCUPATION CONTRACTS UNLESS NOTICE IS GIVEN

37. This Part addresses certain tenancies and licences which are, on the face of the Bill, within section 7, and which would therefore be occupation contracts where it not for paragraph 3. But if a tenancy or licence is mentioned in paragraph 3(2), it is not an occupation contract unless the landlord wants it to be (in which case, as under Part 1, the landlord must give the contract-holder notice).

Paragraph 3

38. Paragraph 3(2) sets out the tenancies and licences which, although within section 7, are not occupation contracts unless notice is given by the landlord. They are tenancies and licences relating to the following-
- Holiday accommodation;
 - Accommodation in a care institution (see paragraph 4 of the Schedule);
 - Barracks used as sleeping accommodation for members of the armed forces (see paragraph 5);
 - “Temporary expedients” – that is, a tenancy or licence relating to a person who was a trespasser when her or she entered the dwelling (see paragraph 6); and
 - Accommodation that is shared with the landlord - for example, where the landlord takes on a lodger (see paragraph 7).

PART 3 - TENANCIES AND LICENCES THAT ARE NEVER OCCUPATION CONTRACTS

39. As with Part 2, this Part addresses certain tenancies and licences which are, on the face of the Bill, within section 7, and which would therefore be occupation contracts were it not for this Part. But if a tenancy or licence is mentioned in paragraph 8, it can never be an occupation contract.

Paragraph 8

40. A tenancy or licence is not an occupation contract if the tenant or licensee is under 16 years of age (or, where there is more than one tenant or licensees, all them are under 16). Sections 229 and 230 deal with the occupation contracts where the contract-holders are all aged 16 or 17.

41. This paragraph also excludes business and agricultural tenancies, long tenancies and tenancies and licences that relate to direct access accommodation. The following are excluded from being occupation contracts:
- a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies, which provides protection for business tenants when renewing or terminating their lease. These tenancies are not covered under this Bill as they are not used for the purpose of renting a home.
 - a secure tenancy that is a housing association tenancy, within the meaning of section 86 of the Rent Act 1977; tenants of a housing association under this Act have defined rights concerning the amount of rent he or she can be charged and security of tenure
 - a protected occupancy or a statutory tenancy within the meaning of the Rent (Agriculture) Act 1976, which affords security of tenure for agricultural workers housed by their employers, and their successors.
 - a protected tenancy or a statutory tenancy within the meaning of the Rent Act 1977, tenants under this Act have defined rights concerning the amount of rent he or she can be charged and security of tenure.
 - a tenancy of an agricultural holding within the meaning of the Agricultural Holdings Act 1986, land comprised in a contract of tenancy which is a contract for an agricultural tenancy.
 - a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995, landlords and tenants have the right to negotiate their own provisions on rent levels and decide whether or not they want to have rent reviews, land must be farmed throughout the life of the tenancy to qualify.
 - a long tenancy (see paragraph 9 of the Schedule).
 - a tenancy or licence which relates to “direct access accommodation” (see paragraph 10).

Paragraph 9

42. Long tenancies are excluded from being occupation contracts. This paragraph defines a long tenancy under the Bill as being:
- a tenancy that is for a fixed term of more than 21 years (that is, at the outset the parties agreed that the tenancy would last for a specified period of time exceeding 21 years);
 - a lease term fixed by law because of a covenant or obligation for perpetual renewal (such as an option by the tenant to renew the tenancy upon expiry, for example to continually renew the tenancy every 5 years); or

- a tenancy made under the “right to buy” (Part 5 of the Housing Act 1985) or ‘right to acquire’ (Housing Act 1996). But a tenancy that can be terminated by notice after a death is not a long tenancy (unless it is a shared ownership tenancy - see below).

43. A shared ownership tenancy is a tenancy related to a dwelling owned by a registered social landlord where the tenant has purchased a percentage of the property on a leasehold basis and pays rent on the un-owned share. Further shares of the un-owned part can be purchased until potentially the remaining un-owned portion is reduced to nil.

Paragraph 10

44. Direct access accommodation is accommodation provided by a community landlord or a charity registered with the Charity Commission (under the Charities Act 2011), which is provided on a very short-term basis (24 hours or less) to people who satisfy criteria set by the landlord (which will generally require the person to have an immediate need for accommodation).

PART 4 - TENANCIES AND LICENCES TO WHICH SPECIAL RULES APPLY: HOMELESSNESS

45. A local housing authority has a duty to those homeless and in need. This includes a duty to provide interim accommodation under section 66 of the Housing (Wales) Act 2014 (“the interim duty”) and a duty to secure accommodation (on a longer term basis) under section 73 of that Act (“the full duty”). A local housing authority’s interim duty requires it to secure accommodation for an applicant that it has reason to believe is homeless, eligible for help and in priority need.
46. An interim duty arises whilst the local authority carries out an assessment under section 60 of the Housing (Wales) Act 2014 to consider whether the applicant is actually owed a full duty.
47. Following this assessment the local authority will notify the applicant of the outcome. If this assessment shows the local authority owes a full duty to the applicant, they have a duty to provide suitable accommodation.

Paragraph 11

48. This paragraph provides that accommodation provided by a local housing authority in connection with its homelessness functions (other than accommodation provided in accordance with the full duty) is not provided under an occupation contract. As such, accommodation provided under the interim duty will not be provided by means of an occupation contract.

Paragraph 12

49. Paragraph 12 sets out the rules that apply where a local housing authority enters into arrangements with another landlord in discharging its homelessness functions.

PART 5 - TENANCIES AND LICENCES TO WHICH SPECIAL RULES APPLY: SUPPORTED ACCOMMODATION

Paragraph 13

50. Tenancies and licences relating to supported accommodation which a landlord (which can be a community landlord or registered charity) initially intends to provide for no more than six months are not occupation contracts. The landlords to whom this applies are community landlords and registered charities. Section 143 defines supported accommodation.
51. If a tenancy or licence relating to supported accommodation continues beyond six months it will automatically become an occupation contract which is a 'supported standard contract'; see section 143 and Part 8 generally. An exception to the automatic conversion to an occupation contract applies where the landlord extends the six month period under paragraph 15.
52. As such an occupation contract will arise at the end of the relevant period, which is either the initial six-month period (where there has been no extension) or following the expiry of any extensions to that period.

Paragraph 14

53. This paragraph sets out the effect previous contracts relating to supported accommodation have on the calculation of the relevant period. Previous contracts that relate to supported housing will count towards the calculation of the start date of the relevant period (whether a six month period or any extended period).
54. For any previous contract to count towards this relevant period it must relate to supported accommodation and either to the same dwelling to which the current contract relates or to a dwelling within the same unit.

Paragraph 15

55. As referred to in the preceding paragraphs, a landlord may extend the period during which a person living in supported accommodation does not do so under an occupation contract.
56. Where a landlord wishes to continue to provide the accommodation beyond the six month period, but that it should not be provided under an occupation contract, the landlord may extend that period. If the landlord is not a local housing authority, the landlord must obtain the consent of the local housing authority (defined in section 240) in whose area the accommodation is situated. An extension can be granted for a period of up to three months at a time, but there can be more than one extension.
57. In order to extend the period, the landlord must give notice of an extension to the resident at least four weeks before the tenancy or licence would otherwise become an occupation contract (including where any previous extension is in force).
58. The notice must provide all the relevant details to the resident including reasons for the extension, when the relevant period, as extended, will end,

and the resident's right to apply to the county court for review. The landlord is also required to consult with the resident before giving notice.

59. In considering whether to apply for an extension the landlord may consider the behaviour of the tenant or licensee and anyone appearing to the landlord to be living in the property.
60. The Welsh Ministers may make regulations setting out details of the procedure for obtaining consent from local housing authorities.

Paragraph 16

61. A person given a notice of extension by the landlord may ask the county court to review the notice (if the landlord is a local housing authority) or the decision of the local housing authority to consent to the notice (where the landlord is not a local housing authority).
62. The court may confirm or quash the decision to give (or consent to) the notice. The court may also vary the extension period, but not beyond the maximum extension of three months.
63. Where the court has varied or quashed the original notice, the landlord may issue a further notice of extension. Should the landlord issue this new notice within 14 days of the court's decision, it will be considered that the notice complies with the minimum 4 weeks' notice period set out in paragraph 15, even if in practice it does not (but this does not affect the time limits within which the resident may seek a review).
64. Review of such decisions is carried out by the county court, albeit in accordance with the principles applied by the High Court in a judicial review application. This is applicable to all the instances of a review undertaken by the county court under the Bill
65. Paragraph 17 provides a power for the Welsh Ministers to amend Schedule 2. The schedule contains significant detail and many definitions which are likely to require updating over time.

Section 8 – Secure contracts and standard contracts

66. This section sets out the two types of occupation contracts contained within the Bill, *secure* and *standard* contracts. As noted above in the commentary on Part 1, a secure contract is a periodic contract that typically runs from week to week or month to month. Secure contracts are the default contract issued by community landlords under the Bill. The exceptions to this are set out below.
67. A standard contract can be either a periodic or a fixed term contract. A periodic contract runs for the agreed rental period, typically from month to month or sometimes week to week. Standard contracts are the default contract issued by private landlords, that is, all landlords that are not community landlords. Private landlords can issue secure contracts if they so choose.

68. A fixed term contract is for a pre-agreed specified length of time, usually a number of months or years. The Bill provides that fixed term standard contracts automatically become periodic contracts on expiry of the fixed term period (j165).

CHAPTER 2 - NATURE OF CONTRACTS WHICH CAN BE MADE ETC. BY COMMUNITY LANDLORDS AND PRIVATE LANDLORDS

Section 9 – Community landlords and Section 10 – Private landlords

69. Section 9 sets out the persons that are community landlords under the Bill. In addition to local authorities (defined under section 240) and registered social landlords (social housing providers such as housing associations registered under Part 1 of the Housing Act 1996), who provide the majority of social housing in Wales, the definition includes certain other providers, and potential providers, such as providers registered in England but which provide social housing in Wales.
70. The Welsh Ministers may amend the definition of community landlord. This is intended to ensure that the Bill can reflect changes in the way social housing is provided.
71. Under section 10, a landlord who is not a community landlord, but who rents dwellings within Wales, is a private landlord for the purposes of the Bill.

Section 11 – Contract made with a community landlord

72. Under the Bill the default contract issued by a community landlord is the secure contract, except where the following exceptions apply:
- An occupation contract that falls within Schedule 3 (see below) which the landlord wishes to be a standard contract.
 - The contract is a prohibited conduct standard contract because of an order under section 116 (this is where a standard contract comes into force by order of the court as a result of prohibited conduct - see below).
 - Where a fixed term standard contract has come to an end and the contract-holder remains in the property. This could arise if the community landlord has adopted a contract that was a fixed term standard contract. This will create (in the absence of any new fixed term contract being made) a periodic standard contract. Alternatively a new contract under section 182(6) may be made for the same property which begins immediately after the previous contract ends.
 - Where a trespasser is occupying the property as his or her home and makes payments which are accepted by the community landlord which owns the property.

SCHEDULE 3 - OCCUPATION CONTRACTS MADE OR ADOPTED BY COMMUNITY

LANDLORDS WHICH MAY BE STANDARD CONTRACTS

73. This Schedule lists a range of occupation contracts which arise in certain circumstances or which concern certain kinds of accommodation. Under sections 11(2) and 12(4), each such occupation contract may be a standard contract, regardless of the fact that it is made by, or adopted by (that is, taken over by) a community landlord. These circumstances are set out below.

Paragraphs 1 to 3

74. Where a contract is being made with someone other than the contract-holder themselves or where no rent is payable, as set out in paragraphs 1 and 2 of Schedule 2.
75. An occupation contract for supported accommodation (a supported standard contract).
76. An introductory standard contract arising by virtue of section 16. An introductory standard contract will not arise where the contract-holder previously held a secure contract with a community landlord, for example where a transfer of contracts has taken place between secure contract-holders.

Paragraphs 4 and 5

77. Occupation contracts relating to accommodation for asylum seekers (asylum seekers are individuals awaiting the outcome of applications for asylum) or persons with temporary protection under the Immigration Rules (which is given to persons where there is a mass influx of displaced persons).

Paragraph 6

78. An tenancy or licence made in connection with a local housing authority's homelessness functions under Part 2 of the Housing (Wales) Act 2014 and to which the rules set out in Part 4 of Schedule 2 apply.

Paragraph 7

79. Occupation contracts relating to accommodation provided by an employer, that would otherwise be required to issue a secure contract and where the employee is required to reside as a term of the employment contract (for example school caretakers, sheltered accommodation wardens).

Paragraphs 8 and 9

80. Occupation contracts provided in connection with working for the police or a fire and rescue service.

Paragraph 10

81. An occupation contract relating to accommodation provided to a student studying a course designated by the Welsh Ministers at a further education institution (an institution providing education beyond school leaving age below the level of a degree) or higher education institution (an institution providing education provided at degree level or beyond).

Paragraph 11

82. Accommodation which is being provided on a temporary basis on land which has been acquired for development.

Paragraph 12

83. Temporary accommodation provided to people who have moved to a local authority area where they were not previously resident to take up employment, whilst they seek permanent accommodation.

Paragraph 13

84. Accommodation in property which has been provided to the community landlord with vacant possession, to ensure that a property is in a fit state to be occupied at a given point in time, in this case when returned by the community landlord.

Paragraph 14

85. Accommodation which is being provided on a short term basis whilst work is carried out on the contract-holder's usual home. A standard contract can be offered here if the temporary accommodation is provided by a different landlord and the contract-holder did not previously hold a secure contract.

Paragraph 15

86. A occupation contract where the contract-holder is a key worker or the making of the occupation contract was not subject to the normal "allocation rules". Allocation rules address how housing is allocated to those in need of this accommodation. Whether a person is a key worker for these purposes will be determined in accordance with regulations made by the Welsh Ministers.

Paragraph 16

87. Accommodation which has been acquired, built or developed by a registered social landlord (see section 1 of the Housing Act 1996) or private registered provider of social housing (see section 80(3) of the Housing and Regeneration Act 2008) with the intention of transfer to a fully mutual housing association or co-operative housing association. A fully mutual housing association or co-operative housing association is where all residents are also members of the association and therefore direct its management.

Paragraph 17

88. This provides the Welsh Ministers with the power to amend Schedule 2.

Section 12 – Contract adopted by a community landlord

89. Where a community landlord becomes the landlord under an existing secure contract (for example where a local authority's housing stock is transferred to a housing association), that secure contract will continue. Where a community landlord becomes the landlord of an existing standard contract because of a transfer of a sub-occupation contract (under sections 62 or 66) it will continue as a standard contract.

90. In all other circumstances, the contract will become a secure contract unless one of the following exclusions apply:
- The contract is an occupation contract under Schedule 3 and the landlord gives the notice required under section 13;
 - The contract was made by an order under section 116 – prohibited conduct standard contracts;
 - The contract was a fixed term standard contract that has ended and become a periodic standard contract;
 - An occupation contract has arisen in relation to a tenancy or licence formed under section 235, which applies where the occupier entered as a trespasser but the landlord has accepted payments from the occupier;
 - Where the contract-holder has a fixed term standard contract for which a premium was paid (for example through buying a leasehold property with less than 21 years remaining before the lease expires) it will become a secure contract unless the contract-holder elects (before the community landlord becomes their landlord) for the contract to remain as a fixed term standard contract under section 16.

Section 13 – Notice of standard contract

91. Where a community landlord wishes to enter into a standard contract, and this is permitted under Schedule 3, notice must be given to the contract-holder (under section 11(2)(b)). The notice must also inform the contract-holder of their right to ask a county court to review the decision to give the notice within 14 days (see section 15).

Section 14 – Review of notice of standard contract

92. This section deals with a notice issued by a community landlord under section 13. The issuing of this notice may be contested by a contract-holder, through a review of the landlord's decision by the county court.
93. The court, upon receiving the application, may confirm or quash the decision to issue the notice. Where the court has quashed the original notice, the landlord may issue a further notice. If it does so within 14 days of the court's decision, the notice has effect as though given at the time the occupation contract was made or when the community landlord became the landlord, as the case may be.

Section 15 – Notice of right to elect to remain on fixed contract

94. As set out in section 13, if a community landlord adopts a fixed term standard contract for which a premium was paid, it will become a secure contract unless the contract-holder elects for their contract to remain as a fixed term standard contract.

95. This section requires that a community landlord gives the contract-holder notice at least one month before it becomes the landlord informing them of their right to elect to remain on a fixed term standard contract.

Section 16 – Introductory standard contracts

96. This section provides that introductory standard contracts are a type of periodic standard contract, which unless extended will run for a period of twelve months before becoming a secure contract. The introductory standard contract provides less security of occupation than a secure contract.
97. Introductory standard contracts allow community landlords to ascertain, during the introductory period, whether a contract-holder can sustain a secure contract. In instances where the contract-holder has demonstrated that they will not be able to sustain a secure contract, the landlord can seek to terminate by notice under section 172 which means that an introductory standard contract can be terminated more swiftly than is possible under a secure contract.

SCHEDULE 4 - INTRODUCTORY STANDARD CONTRACTS

98. This schedule sets out in more detail the arrangements under the Bill that apply to introductory standard contracts. These are a form of periodic standard contract that can be issued by community landlords, in the first instance for an introductory period of 12 months, instead of issuing a secure contract.
99. A community landlord can also seek a court order to extend the introductory period to a total of 18 months. The contract-holder is able to seek an internal review of the landlord's decision to seek an extension. Furthermore, after an internal review the contract-holder can seek a review by the county court of a decision to extend.
100. The processes relating to extension, internal review and review by county court set out in this schedule are very similar to those applying to prohibited conduct standard contracts (see Schedule 7).

Paragraph 1

101. This paragraph sets out what constitutes the introductory period during which an occupation contract granted by a community landlord is a periodic standard contract (because of the exception in paragraph 3 of Schedule 3)
102. Where a community landlord has sought to terminate the contract through making a possession claim, or given notice to the contract-holder of its intention to do so, but the claim has not concluded, the contract will remain as a standard contract beyond the introductory period until the notice has been withdrawn, the claim not ultimately pursued or the claim has been determined in favour of the contract-holder.

Paragraph 2

103. This paragraph sets out how the date on which the introductory period starts is determined where the contract-holder was a party to an introductory standard contract which ends just as the right to occupy the dwelling under the new introductory standard contract begins. In the case of joint contract-holders, the date is the earlier, or earliest, of the dates that would apply if each joint contract-holder was treated individually.

Paragraph 3

104. A landlord may extend the introductory period from 12 months to 18 months. In deciding to extend the introductory period, the landlord may consider the behaviour of the contract-holder(s) and the behaviour of any person who the landlord considers to be living in the premises. This will apply to any person living in the premises for any length of time, in any capacity.
105. A community landlord seeking an extension to the introductory period must notify the contract-holder at least eight weeks before the introductory period is due to end. The notice must:
- inform the contract-holder of the decision to extend and the reasons the landlord is seeking the extension; and
 - inform the contract-holder that they have the right to request the community landlord to review its decision, and the time by which such a request must be made.
106. The Welsh Ministers may extend or shorten the period within which notice of extension must be given to the contract-holder to be valid.

Paragraph 4

107. If the contract-holder requests a review, the landlord will be required to review its decision, following which it may confirm or reverse the decision to give the notice. The landlord must notify the contract-holder of the outcome of the review before the day on which introductory period would end if it were not extended.
108. The Welsh Ministers may by regulations set out the procedure to be followed for any review of this notice.

Paragraph 5

109. Where a review has taken place and the landlord gives the contract-holder notice confirming the original decision, or where there was a failure to notify the contract-holder of the outcome, the contract-holder may apply to the county court for review of the decision to give the notice of extension. An application must be made within 14 days of the date on which the landlord gives the contract-holder notice of its decision or 14 days from the date the landlord should have notified the contract-holder of the decision (that being the day on which the introductory period would end, if it were not extended).

110. The court may confirm or quash the decision to give the notice of extension. Where the court has quashed the original notice, and the landlord issues a further notice within 14 days of the court's decision, the notice is deemed to comply with the notice requirement under paragraph 3.

Paragraph 6

111. This paragraph sets out what contractual terms apply when an introductory standard contract becomes a secure contract. The position will vary according to whether the landlord and contract-holder have agreed what the terms will be.

Section 17 – Contracts made with or adopted by a private landlord

112. The occupation contracts private landlords enter into with a contract-holder will by default be standard contracts. This will not apply where a landlord has specifically given notice to the contract-holder (before or when the contract is made) that it is a secure contract.
113. Where a private landlord becomes the landlord of an existing secure or standard occupation contract, the contract will remain, respectively, a secure or standard contract.

CHAPTER 3 - FUNDAMENTAL PROVISIONS OF OCCUPATION CONTRACTS

114. In addition to property-specific information such as the amount of rent and address (referred to as key matters in the Bill), occupation contracts will comprise fundamental terms (based on fundamental provisions in the Bill), supplementary terms (drawn from regulations to be made by the Welsh Ministers under a power in the Bill), and any additional terms agreed between the landlord and contract-holder.
115. Chapter 3 sets out the concept of fundamental provisions in the Bill, and how these become incorporated as fundamental terms within occupation contracts. Many fundamental provisions can be incorporated with modifications or not incorporated at all in an occupation contract, providing the position of the contract-holder is improved as a result. However, some fundamental provisions must always be incorporated without modifications and these are listed in the Chapter.
116. Schedule 1 sets out the fundamental provisions that apply to each type of occupation contract. Generally, these Explanatory Notes do not separately identify provisions, but do identify where fundamental provisions must be incorporated without modification into occupation contracts.

Section 18 - Fundamental provisions and Section 19 – Fundamental provisions and fundamental terms definitions

117. Fundamental provisions are one of the key aspects of this Bill and will be a key component of an occupation contract where they will be reflected as fundamental terms. The Bill specifies which fundamental provisions apply to which contracts. In some cases fundamental provisions are to be incorporated into all occupation contracts (for example the need to provide a written

statement of the contract) and in other cases there are provisions which apply only to certain contracts.

118. Model written statements of contracts prescribed by the Welsh Ministers in the exercise of their power under section 29 will contain the fundamental and supplementary terms applying to each type of occupation contract, and these will reflect the relevant fundamental provisions in the Bill, incorporated without modification.
119. In practice, the fundamental terms of the contract will very closely reflect the wording of the fundamental provisions of the Bill, and section 33 sets out the limits of acceptable editorial changes.

Section 20 – Incorporation and modification of fundamental provisions

120. This allows landlords and contract-holders to agree not to incorporate certain fundamental provisions into an occupation contract, provided that this improves the position of the contract-holder. Landlords and contract-holders are also able, by agreement, to modify fundamental provisions on the same basis. This is subject to subsection (3).
121. The fundamental provisions set out in section 20(3) must be incorporated as fundamental terms of every occupation contract to which they apply, without any modification. An example of such a provision would be that prohibiting anti-social behaviour and other conduct (section 55). The reasons why these provisions are given this special status differ, and are explained in the notes on those sections.
122. Section 21(4) sets out that the incorporation and modification of fundamental provisions is subject to the ability of the contract-holder to apply to the court for a declaration as to the terms of the contract. Such an application can be made if a written statement of the contract is either not provided (section 34) or is incomplete (section 36).

Section 21 – Effect of non-incorporation and modification of fundamental provisions

123. If a landlord and contract-holder agree to modify or leave out a fundamental provision, section 21 provides for the automatic modification or non-incorporation of other fundamental and supplementary provisions in order to give effect to the agreement. For example, if the fundamental provision allowing for mandatory possession on grounds of serious rent arrears was not incorporated, the fundamental provision restricting the use of that possession ground should also not be incorporated. This section ensures that that would happen.
124. Automatic modification and automatic non-incorporation are subject to the same constraints as an agreement to modify or not to incorporate; they must not result in the modification or non-incorporation of any of the fundamental provisions listed in section 20(3).

125. The fundamental terms of an occupation contract can be changed after the contract is made (and this is referred to in the Bill as a “variation”). However, there are limits to this right and the limits vary between secure contracts (see Chapter 2 of Part 5), periodic standard contracts (see Chapter 2 of Part 6) and fixed term standard contracts (see Chapter 2 of Part 7). Each of those Chapters is discussed further below.

Section 22 – Powers in relation to fundamental provisions

126. Enables the Welsh Ministers to make regulations which specify that any provision of an Act (including the Bill) or subordinate legislation is, or is not, a fundamental provision. To reflect changing practice and understanding in the housing sector by making certain provisions into fundamental provisions, and to ensure that new rights and obligations arising under other legislation can become fundamental provisions.

CHAPTER 4 - SUPPLEMENTARY PROVISIONS OF OCCUPATION CONTRACTS

127. Chapter 4 sets out the concept of supplementary provisions in the Bill, and how these become incorporated as supplementary terms within occupation contracts. As with fundamental provisions, supplementary provisions can be incorporated with modifications or not incorporated at all in an occupation contract. However, there is no restriction regarding the non-incorporation or modification having to improve the position of the contract-holder. Therefore, the modification or non-incorporation can have the effect of improving the position of either the landlord or the contract-holder.

Section 23 – Supplementary provisions

128. This section provides for supplementary provisions to be set out in regulations made by the Welsh Ministers. Examples of supplementary provisions would include terms relating to the keeping of pets, maintenance of a garden and the requirement to pay council tax and utility bills.

Section 24 – Incorporation and modification of supplementary provisions

129. Establishes the default position that supplementary provisions are incorporated as supplementary terms of an occupation contract. It also provides for landlords and contract-holders to agree that a supplementary term is either not incorporated or incorporated with modifications. However, where modification of a supplementary provision would render the related supplementary term incompatible with a fundamental term of the contract, that modification has no effect.

Section 25 – Effect of non-incorporation and modification of supplementary provisions

130. This addresses the effect that not incorporating a supplementary provision, or incorporating it with modifications, has on another supplementary provision. Where this means that another supplementary provision needs to change or to not be incorporated, that will happen automatically, unless this would be incompatible with a fundamental term of the contract. If that is the case, the original change or non-incorporation does not happen.

CHAPTER 5 - KEY MATTERS AND ADDITIONAL TERMS OF OCCUPATION CONTRACTS

Section 26 – Key matters in relation to all occupation contracts

131. This section sets out the key matters which are part of all occupation contracts, these are:

- the address of the dwelling;
- the occupation date (the date from which the contract-holder is able to occupy the dwelling);
- the amount of rent or other consideration;
- the rental periods (for example weekly or monthly). ‘Rental period’ is defined in Section 249.

Section 27 – Further key matters of standard contracts

132. This section sets out the additional key matters which are part of standard contracts, these are:

- whether the contract is periodic or made for a fixed term;
- if it is made for a fixed term, the term for which it is made (how long does the contract run, when does it begin and when does it end); and
- any periods during which the contract-holder is not entitled to occupy the premises (for example, to allow for the use of student accommodation for other purposes during vacations periods).

Section 28 – Additional terms

133. This section defines ‘additional terms’ as any terms other than fundamental terms, supplementary terms and terms relating to key matters. Additional terms can be included in the contract to cover issues such as the keeping of pets. However, such terms cannot conflict with the terms relating to key matters, and fundamental and supplementary terms.

CHAPTER 6 - MODEL CONTRACTS

Section 29 – Model written statements of contract

134. This section provides the Welsh Ministers with a power to issue “model” written statements of occupation contracts (a landlord is required to provide a written statement of the contract under section 31).

135. These written statements will include the fundamental and supplementary terms relevant to each form of contract. So, for example, there will be model written statements for secure, fixed term and periodic occupation contracts.

PART 3 - PROVISIONS APPLYING TO ALL OCCUPATION CONTRACTS

CHAPTER 1

Section 30 – Overview of this Part

136. This section provides an overview of Part 3, which sets out provisions that apply to all occupation contracts.

CHAPTER 2 - PROVISION OF INFORMATION

137. The Bill places a requirement on landlords to provide certain information to contract-holders. This includes a requirement for a written statement of the contract to be issued within 14 days of the date the contract-holder begins occupying the premises. This chapter also sets out what the contract-holder can do to enforce the provision of information, and also provides for compensation of up to two months' rent to be payable by the landlord for failing to issue the written statement of the contract.

Section 31 – Written statement

138. This section requires the landlord to provide a written statement of the occupation contract to the contract-holder within 14 days of the date occupation commences. This requirement is intended to ensure that all parties know precisely what their rights and obligations are under the contract. The landlord cannot charge a fee to the contract-holder for providing the initial statement.
139. If a contract-holder requires a further copy of the written statement, the landlord must provide this within 14 days of the request being made. The landlord may charge a reasonable fee for providing any extra copies required. This section is a fundamental provision which is incorporated as a term of all occupation contracts.

Section 32 – Contents of written statement

140. This section sets out the information to be included in the written statement of contract. This is the names of the landlord and contract-holder(s), the key matters (sections 26 and 27), the fundamental terms (section 18) and supplementary terms (section 23), together with any additional terms which have been agreed between the landlord and contract-holder.
141. Where the landlord and contract-holder have agreed not to incorporate a fundamental or supplementary term there is a requirement for the statement to specifically identify those provisions.

Section 33 – Editorial changes

142. This section allows for 'editorial changes' to be made to the wording of fundamental or supplementary terms, and gives examples of what these might be.

Section 34 – Failure to provide a written statement

143. Where a landlord has not provided a copy of the written statement within 14 days, as required by section 31, the contract-holder may apply to the court for a declaration of the terms of the contract.
144. The court will deem that the relevant fundamental and supplementary provisions are incorporated without modification as terms of the contract. However, if the contract-holder claims that particular provisions were not incorporated or were incorporated with modifications, then the court will determine the position, unless the landlord's failure to issue the written statement is attributable to the contract-holder. The court may either issue a statement of the contract or order the landlord to do so.

Section 35 - Failure to provide a written statement: compensation

145. This section provides for compensation to be payable by the landlord to the contract-holder where the landlord has failed to provide a written statement of the contract, unless the failure is attributable to the contract-holder. The time period to issue the written statement is 14 days, from either date of occupation or the date a further copy is requested by the contract-holder.
146. The compensation is payable in accordance with section 87 and is equivalent to a day's rent for each day that the written statement is not provided, up to a maximum of two month's rent until the statement has been provided. If the contract-holder believes the failure to provide the written statement was intentional, section 87 also enables the contract-holder to apply to the court for the compensation amount to be increased. Interest will be added to the compensation amount if the landlord fails to provide the statement within the two month period. Section 88 enables the contract-holder to set off any compensation he or she is owed against rent.

Section 36 – Incomplete written statement

147. This section provides that where an incomplete written statement of the contract has been provided, the contract-holder may apply to the court for a declaration of the contract. The contract-holder may not do so before the end of the 14 day period starting on the occupation date. Where the court concludes that the provision of an incomplete statement was deliberate on the part of the landlord (for example, the landlord omitted the repairing obligation term in an attempt to avoid that obligation), it can order the landlord to pay compensation to the contract-holder under Section 87. Section 87 also enables the contract-holder to apply to have the amount of compensation increased up to a maximum of double the original amount.

Section 37 – Incorrect statement: contract-holder's application to court

148. This section deals with the circumstance where, after 14 days, the landlord has provided an incorrect written statement of the contract, that is, where the contract-holder believes that the terms have been incorrectly stated, or terms included which were not agreed. The contract-holder may apply to the court

seeking a declaration as to the terms of the contract. If the court decides the provision of an incomplete written statement was deliberate, it can order a landlord to pay compensation of up to two month's rent, plus interest. Under Section 87, the contract-holder may apply to the court for the compensation amount to be increased.

Section 38 – Incorrect statement: landlord's application to court for declaration that contract is a standard contract.

149. Where a community landlord has provided a notice to a contract-holder under section 13 (notice of standard contract) but has mistakenly provided a written statement for a secure contract, the landlord may apply to a court to have this rectified.

Section 39 – Provision by landlord of information about parties to the contract and Section 40 Compensation for breach of section 39

150. Within 2 weeks of the contract beginning, a landlord is required to provide the contract-holder with an address where any documents for the landlord can be sent (this may be an agent, if the landlord uses one). If there is a change in the identity of the landlord, the new landlord must inform the contract-holder of this. Similarly, if there is a change in contract-holder, the landlord must give the new contract-holder notice in writing that they are now the contract-holder.
151. Where a landlord fails to provide this information to the contract-holder within the required time, they are liable to pay the contract-holder compensation equivalent to a day's rent for each day that the information is not provided (up to a maximum of two month's rent) until the information has been provided. Interest will begin to be added to that amount if the landlord has failed to provide the statement within the two month period.

Section 41 – Form of notices

152. Form of notices: this section requires that any notices or other documents which relate to the contract must be in writing (for example a request from a contract-holder to add another person to the contract, or a notice from the landlord that the landlord's identity has changed). Sections 233 and 234 deal with notices in greater detail.

CHAPTER 3 - WHEN CONTRACT BECOMES ENFORCEABLE

Section 42 – When terms of occupation contract become enforceable

153. This section sets out the time at which an occupation contract becomes enforceable against the contract-holder. A landlord is not able to enforce any term of an occupation-contract before the landlord issues the written statement of the contract or, if earlier, the date on which the contract-holder is entitled to occupy the dwelling. For example, if the landlord provides the written statement of the contract six weeks before the occupation date, then the contract-holder would no longer be able to end the contract immediately by giving notice under Section 151. Instead, the contract-holder would be required to give four weeks' notice under Sections 162 and 163.

CHAPTER 4 - DEPOSITS AND DEPOSIT SCHEMES

Section 43 – Form of security

154. Where a contract-holder is required by the landlord to pay a deposit in relation to a dwelling the landlord can only ask for this deposit in the form of money or a guarantee. For example a deposit guarantee scheme provided by a local authority for those unable to afford a deposit.

Section 44 – Form of security: county court proceedings

155. Where a landlord requires a contract-holder to provide security in a form other than money or a guarantee, for example an item of jewellery, the contract-holder (or any person who has given the security for the contract-holder) may seek an order in the county court requiring the person who appears to be holding the security to return it.

Section 45 – Requirement to use deposit scheme

156. A landlord who requires a deposit from a contract-holder must place any deposit received into an authorised deposit scheme (under Schedule 5). A landlord must, within 30 days of receiving the deposit, place it into such a scheme and provide the contract-holder with details of the scheme being used, their rights with regard to this deposit and confirmation that they are complying with the initial requirements of that scheme (that the deposit has been protected under the scheme). Protection of deposits paid by contract-holders is of great importance in practice, and in order to ensure that this protection extends to all contract-holders this section is a fundamental provision in relation to all occupation contracts which must be incorporated without modification.

Section 46 – Deposit schemes: further provision

157. This section introduces Schedule 5. It also highlights the connection between this Chapter and sections 175 and 194. Section 175 prevents a landlord who has entered into a periodic standard contract from issuing a notice for possession (under section 172) if the landlord has not complied with the requirements of section 43 or section 45. Section 195 makes the same provision in relation to fixed term standard contracts.

SCHEDULE 5 - DEPOSIT SCHEMES: FURTHER PROVISION

158. The Bill extends the current deposit scheme requirements relating to Assured Shorthold Tenancies to all occupation contracts. The requirements under the Bill apply equally to private and community landlords. Schedule 5 sets out additional provisions relating to the protection of deposits.
159. Paragraph 1 requires the Welsh Ministers to make arrangements for the availability of deposit schemes. ‘Deposit scheme’ and ‘arrangements’ are defined, and requirements relating to the arrangements are set out. The paragraph also includes a power for the Welsh Ministers to make regulations, conferring powers and imposing duties on scheme administrators.

160. Paragraph 2 applies where an occupation contract is ongoing. If a landlord does not arrange for a deposit to be held in accordance with an authorised deposit scheme, or fails to comply with certain requirements (including the requirements of section 45(2)), the contract-holder, or a person who paid a deposit on his or her behalf, may apply to the court for a remedy. If the court is satisfied this is the case, it can either order the deposit to be repaid or to be paid into a custodial deposit scheme, if one is in existence (defined in the paragraph). The court must also order the landlord to pay up to three times the amount of the deposit to the applicant. Paragraph 3 provides for a similar remedy for the situation where the occupation contract has ended.
161. Where the landlord and contract-holder enter into a new occupation contract (in relation to the same, or substantially the same, dwelling) that immediately follows the previous contract, paragraph 4 provides for the deposit in relation to the first contract to apply to the second contract. This is providing the requirements in relation to the deposit were complied with by the landlord.

Section 47 - Deposit schemes: interpretation

162. This section sets out definitions of terms used in connection with deposit schemes in the Bill.

CHAPTER 5 - JOINT CONTRACT-HOLDERS AND JOINT LANDLORDS

Section 48 – Joint contract-holders: joint liability etc

163. Two or more persons who agree to rent a dwelling together are referred to as joint contract-holders in the Bill. Where there are joint contract-holders under an occupation contract, this section provides (amongst other general provisions about how the Bill operates in relation to joint contract-holders) that each joint contract-holder is fully liable in respect of the contract-holders' obligations under the occupation contract.

Section 49 – Adding a joint contract-holder

164. Where a contract-holder under an occupation contract wishes to add another person as contract-holder to the contract, the contract-holder can do so with the consent of the landlord. Another person added to the contract as a joint contract-holder becomes entitled to the same rights and bound by the same obligations as the original contract-holder(s).

Section 50 - Adding a joint contract-holder: landlord's consent

165. A landlord is able to refuse a contract-holder's request under section 49 provided their reasons for refusing are reasonable. Determination of when a landlord may reasonably withhold consent, or give consent subject to conditions, is dealt with under section 84 and Schedule 6.
166. Schedule 6 sets out the circumstances a landlord must consider, if relevant, following a request to add a joint contract-holder. For example a relevant circumstance may be whether the person the contract-holder wishes to add as a party has been a contract-holder previously and, if so, whether they complied with the occupation contract to which they were a party.

Schedule 6 - REASONABLENESS OF WITHHOLDING CONSENT ETC.

Part 1 – Introductory

167. Schedule 6 sets out circumstances which must be taken into account, so far as are relevant, for the purpose of determining whether a landlord has acted reasonably in refusing consent or imposing a condition on the grant of consent. The schedule applies only to consents under the following sections:

- Section 49 - Adding a joint contract-holder;
- Section 57 - Permissible forms of dealing;
- Section 114 - transfer of secure contract to a potential successor;
- Section 118 - Transfer of secure contract with community landlord to another secure contract-holder.

168. Part 2 sets out circumstances that may be relevant to all of the above consents. Part 3 sets out circumstances that may be relevant to the particular sections.

Part 2 – Circumstances which may be relevant to reasonableness generally

169. The general circumstances are those relating to:

- the status of the contract;
- the dwelling;
- the circumstances of the contract-holder and other occupiers; and
- the circumstances of the landlord.

Part 3 - Circumstances which may be relevant to reasonableness in relation to particular transactions

170. Paragraph 9 sets out the relevant circumstances in relation to granting consent to add another person to the contract under section 49. If the landlord considers that granting consent is likely to substantially extend the length of the contract, then paragraph 10 provides for it being reasonable for the landlord to make it a condition of consent that the proposed joint contract-holder is treated as being a priority or reserve successor.

171. Paragraph 11 sets out the relevant circumstances in relation to granting consent to transferring a contract to a potential successor under section 114. If the landlord considers that granting consent is likely to substantially extend the length of the contract, then paragraph 12 provides for it being reasonable for the landlord to make it a condition of consent that the potential successor is treated as being a priority or reserve successor.

172. Paragraph 13 sets out the relevant circumstances in relation to granting consent to transferring a secure contract, under section 118, to another secure contract-holder of a community landlord. Paragraph 14 provides for it to be reasonable for the landlord to impose a condition that, if the transfer is part of a chain of transfers, the transfer may only proceed if all the other transfers in the chain take place. It is also reasonable for the landlord to impose a condition that, if the person to whom the contract is being transferred is a priority or reserve successor under his or her current contract, he or she will be retain the same succession status under the transferred contract.

Section 51 - Adding a joint contract-holder: formalities

173. The addition of a joint contract-holder requires a document to be signed (or executed) by all of the existing and new parties to the agreement. It also needs to be signed (or executed) by the landlord, if landlord's consent is required (that is, if section 49 has been incorporated into a contract without modifications which remove the landlord's consent aspect.) However under section 84(5) and (9) a landlord has consented to the adding of the joint contract-holder if they have not respond in writing to the contract-holder's request within two months.

Section 52 - Joint contract-holder ceasing to be a party to the occupation contract

174. This section deals with the situation where a joint contract-holder dies or otherwise ceases to be a party to the contract. In such cases, the remaining joint contract-holder(s) are entitled to the same rights, and are bound by the same terms, as they were previously. A joint contract-holder who leaves a contract remains liable for anything which occurred during their time as a contract-holder, such as a failure to pay rent.

Section 53 - Joint landlords

175. Where there are joint landlords, each of them is fully responsible to the contract-holder for the obligations under the contract.

CHAPTER 6 - RIGHT TO OCCUPY

Section 54 - Right to occupy without interference from landlord

176. A landlord must not interfere with the contract-holder's right to occupy the dwelling. This is also known as the contract-holder's right to 'quiet enjoyment' of the property. This does not prevent the landlord carrying out any repairs. It means a landlord must not act in a way that affects the contract-holder's right to live in their home without interference from the landlord on a day-to-day basis.

CHAPTER 7 - ANTI-SOCIAL BEHAVIOUR AND OTHER PROHIBITED CONDUCT

177. The Bill includes a fundamental provision relating to 'prohibited conduct'. To ensure universal application, this provision must be incorporated without modification as a fundamental term of all occupation contracts. Breach of the term is a ground for the landlord to seek possession and, under section 158, the landlord may make a possession claim to the court immediately after

giving a possession notice to the contract-holder. The court will have discretion in considering a possession claim made in relation to a breach of the term.

Section 55 - Anti-social behaviour and other prohibited conduct

178. The contract-holder must not engage, or threaten to engage, in behaviour capable of causing nuisance or annoyance to another person living in the dwelling or in the locality, or to a person engaged in lawful activity in the dwelling or in the locality. The contract-holder must also not behave in such a way towards the landlord, or a person acting on the landlord's behalf, in relation to the landlord's housing management functions.
179. The contract-holder must also not use, or threaten to use, the dwelling, common parts (defined in Section 249) or any part of the building in which it is located for criminal purposes.
180. It would also be a breach of Section 55 if the contract-holder allowed, incited or encouraged another person living in the dwelling to behave as described in subsections 1 to 3. Furthermore, it would also be a breach if the contract-holder allowed, incited or encouraged any person to use, or threaten to use, the dwelling for criminal purposes.

Schedule 7 - Prohibited conduct standard contracts

Paragraph 1

181. Where a community landlord or registered charity has entered into a secure contract, and the contract-holder has broken the fundamental term incorporating section 55 (anti-social behaviour and other prohibited conduct), the landlord may, under section 116, apply to the court for an order ending the secure contract and creating a periodic standard contract in its place.
182. Paragraph 1 sets out the procedure on application for an order under section 116. A landlord applying for such an order must give the contract-holder notice, setting out information specified in paragraph 1(2), unless the court considers it reasonable to dispense with a notice. Paragraph 1(2) also sets the time limits within which an application may be made. Paragraph 1(3) provides that proceedings may be brought on the day the notice is given. Paragraph 1(4) enables the landlord to make a possession claim in the same proceedings.

Paragraph 2

183. Where a periodic standard contract is imposed by order of the court, the terms of the contract are as agreed by the landlord and contract-holder (subject to the requirements regarding incorporation of fundamental and supplementary terms). Where no agreement of terms is reached, then all fundamental and supplementary terms applying to periodic standard contracts will be incorporated without modification and any other terms incompatible with those terms will cease to have effect. Any other terms of the secure contract will apply, subject to those fundamental and

supplementary terms. Any rent arrears (or overpayments) under the secure contract become payable under (or are credited to) the periodic standard contract.

Paragraph 3

184. Paragraph 3 makes provision for the probation period applying to prohibited conduct standard contracts that is the period for which an occupation contract remains a periodic standard contract as a result of a court order under section 116. The period is 12 months from the occupation of the new contract. This is subject to a landlord being able to apply for an extension of the probation period to 18 months under paragraph 4. The landlord may also end the probation period early by giving a notice under paragraph 3(2). The paragraph also makes provision dealing with situations where possession notices are given by the landlord but possession claims are neither brought nor concluded prior to the expiry of the probation period.

Paragraph 4

185. This paragraph enables a landlord to extend the probation period to 18 months. This may be relevant where, for example, there is continuing concern about the conduct of a contract-holder. In such a situation a landlord must notify the contract-holder, at least eight weeks before the probation period is due to end that the landlord wishes to extend the period. A contract-holder has a right to ask for a review of this decision to extend under paragraph 5. Paragraph 4 also sets out what information the notice provided to the contract-holder must contain. The Welsh Ministers may by regulations amend the length of the notice period.

Paragraphs 5 and 6

186. Paragraph 5(1) confers a right on a contract-holder to request a review by the landlord of a decision to give a notice of extension under paragraph 4. Paragraph 5(2) sets out the time limit within which the contract-holder must request the review. The landlord must inform the contract-holder of the outcome of this review before the 12 month probation period has ended. If the review confirms the decision to extend, the landlord must provide the contract-holder with a notice including the information set out in paragraph 5(6).
187. Where the landlord has confirmed their decision to give a notice of extension, the contract-holder may apply to the county court for a review of the decision. Paragraph 6 sets out the time limit for making an application. The court, in considering this review, may confirm or quash the decision.

Paragraph 7

188. A contract-holder who is at least six months into the probation period may apply to the court to end the probation period. The probation period can only be ended if the court is satisfied of the matters set out in sub-paragraph (3).

Paragraph 8

189. At the end of the probation period, a prohibited conduct standard contract will become a secure contract. This paragraph sets out the terms that are to apply to the contract in default of agreement by the landlord and contract-holder, subject to incorporation of fundamental and supplementary terms.

Section 56 – Power to amend

190. This allows the Welsh Ministers to amend section 55 by making regulations.

CHAPTER 8 - DEALING

Section 57 – Permissible forms of dealing and Section 58 – Dealing and landlord’s consent

191. A contract-holder may not ‘deal’ with their occupation contract in any way which is not permitted by the contract itself or by a family property order. Family property orders are defined under section 248, and include an order to transfer a tenancy made by the court under the Family Law Act 1996.
192. For these purposes, subsection (4) makes it clear that “dealing” includes creating a sub-tenancy or sub-licence, transferring the contract to another or taking out a mortgage on the dwelling.
193. A contract-holder dealing outside the terms of their contract or family property order, or without the landlord’s consent, will be in breach of contract.
194. Where an occupation contract contains provision which allows for dealing subject to the landlord’s consent, then, as set out in section 84, the landlord cannot withhold consent unreasonably or make consent subject to unreasonable conditions. Furthermore, Schedule 6 sets out specific matters that are relevant to considering reasonableness in relation to a consent relating to dealing.

Sections 59 – Sub-occupation contracts: interpretation

195. In most rental situations there is only a landlord and a contract-holder. However, on occasions a contract-holder may wish to sub-let the dwelling to another person. This would create a ‘sub-occupation contract’ between the contract-holder and that person, who is known as the ‘sub-holder’ under the Bill. In this scenario the contract-holder is the landlord of the sub-holder. The contract-holder’s landlord is known as the ‘head landlord’ and the head landlord’s contract with the contract-holder known as the ‘head contract’.
196. There is no right for the contract-holder to enter into a sub-occupation contract with another person, the head landlord may however agree to sub-occupation. This will generally be addressed as an additional term of the ‘head contract’ between the head landlord and the contract-holder.

Section 60 - Sub-occupation contract never takes effect as transfer

197. This section establishes that a sub-occupation contract that ends at the same time as the head contract is not a transfer of the original contract, but a separate contract.

Section 61 - Failure to comply with conditions imposed by head landlord

198. Where the head landlord has given conditional consent to a sub-occupation contract, but the conditions have not been complied with, the sub-occupation contract is still valid. However, if the sub-occupation contract is made as a secure or fixed term standard contract, the head landlord may treat it as a periodic standard contract.

Section 62 - End of head contract

199. Where the head contract ends, for example due to the contract-holder giving notice under section 167, the sub-occupation contract continues. The head landlord becomes the landlord to the sub-holder and the sub-occupation contract continues as an occupation contract. However, the sub-occupation contract does not continue if the head contract ends because it is a fixed term standard contract that has ended at the end of the fixed term.

Section 63 - End of head contract: further provision

200. Section 63 does not affect the right of the head landlord under Section 63 to treat the sub-occupation contract as a periodic standard contract. Furthermore, the head landlord and sub-holder are not liable to one another for any breach of the sub-occupation contract, but may be liable for any continuing breach once the head contract ends.

Section 64 - Possession claim against contract-holder where there is a sub-holder

201. There may be circumstances when the head landlord wishes to end the head contract, for example because the contract-holder has stopped paying rent to the head landlord. This section requires the landlord to give to the sub-holder a notice of the landlord's intention to make a possession claim against the contract-holder.

Section 65 - Extended possession order against sub-holder

202. When making a possession claim against the contract-holder, the head landlord may also apply to the court for an 'extended possession order' against the sub-holder, providing the notice requirements in subsection (3) have been met, or the court considers it reasonable to allow the application to go ahead even if those requirements have not been met. The court may only consider the application for an extended possession order against the sub-holder where it has decided to make a possession order against the contract-holder. Furthermore, the court may only make an extended possession order if it would have made a possession order had the contract-holder made a possession claim against the sub-holder.

Section 66 - Exclusion of contract-holder after abandoning contracts

203. Where the sub-holder believes the contract-holder no longer wishes to be a party to the head contract, the sub-holder may act to end the head contract. The effect of this will be to transfer the contract-holder's rights and obligations (as landlord of the sub-occupation contract) to the head landlord. The parties to the occupation contract will then be the head landlord and the (former) sub-holder. Such a scenario may occur where the contract-holder has disappeared.
204. To end the head contract, the sub-holder must serve the contract-holder with a notice stating that he or she no longer considers the contract-holder to be a party to the head contract and sub-occupation contract. This notice must be copied to the head landlord. The notice must inform the contract-holder that he or she has a four-week "warning period" during which he or she must confirm that he or she is still a party to the contracts. The sub contract-holder must, during this warning period, conduct investigations in order to be satisfied that the contract-holder has abandoned the contracts.
205. After the four week period, if the sub-holder is satisfied abandonment has taken place, he or she may apply to the court to have the rights and responsibilities of the contract-holder (as landlord) transferred to the head landlord. The court may not make the order if the head landlord asserts the court would have made a possession order against the sub-holder, had the contract-holder brought such a claim, and the court is satisfied this is the case.

Section 67 -Excluded contract-holder's remedies

206. This section provides a remedy to a contract-holder where the court makes an order excluding him or her from the contract under Section 66. The contract-holder may, within six months of the date of the order, apply for a declaration that the head contract continues. The grounds for making the application are set out in subsection (3). They include inadequate investigations by the sub-holder and that the failure to respond to the sub-holder's notice was reasonable. The court may rescind its previous order and declare that the head contract continues, and make any further order it thinks fit.

Section 68 - Power to vary periods of time relating to exclusion after abandonment of contracts

207. This section confers on the Welsh Ministers power by regulations to amend the required warning period under section 66 and the appeal period under section 67.

Sections 69 to 70 – Transfer

208. The Bill makes provision for the transfer of an occupation contract from a contract-holder to another person. This allows, for example, an elderly contract-holder to transfer on his or her secure contract to a family member before entering residential care.
209. Sections 69 and 70 set out the processes and procedures for the transfer of all occupation contracts, how transfers must be undertaken and how they

become effective. These provisions also apply to joint contract-holders under an occupation contract. Providing the requirements relating to transfer are met, the rights and obligations under the contract will transfer on an agreed date. The transfer does not remove any rights or obligations of the former contract-holder that accrued before the transfer date, for example in relation to any rent arrears.

Section 71 – Effect of unauthorised transfer

210. A landlord may seek possession against a contract-holder who transfers an occupation contract other than in accordance with the contract, this section provides for an exception to this. Where there is an unauthorised transfer and the landlord accepts payments from the person to whom the contract is transferred, knowing that the transfer was not in accordance with the contract (or where the landlord should have known that), then the transfer will be treated as having been made under section 70.
211. This does not apply where the landlord takes steps to end the contract or brings eviction proceedings within two months of the date of accepting payments.

Section 72 – Deeds and covenants

212. Sub section 2 disapplies certain requirements of the Law of Property Act 1925 that apply to conveyances of land or interest in land, providing that the transfer of occupation contracts do not need to be entered into by means of a deed.

Section 73 – Succession on death

213. If a sole contract-holder dies and there is a person who survives the contract-holder who qualified to succeed the contract-holder, then that surviving person will succeed to the occupation contract. This principle applies to all contracts. Section 79 deals with instances where there is more than one possible successor.

Sections 74 to 76 – Persons qualified to succeed

214. The right to succeed to all occupation contracts arises on the death of the contract-holder, only where neither of the following two criteria apply:
- Where there is already a joint contract-holder who under rights of survivorship is entitled to continue as the sole party to the contract.
 - Where a fixed term standard contract contains provision allowing for the contract to be transferred by will or intestacy.
215. A person will be qualified to succeed as either a priority successor or a reserve successor. This will mean in practice there may, in the fullness of time, be two successions to an occupation contract depending on which of the following apply:
- Where a person has succeeded as a priority successor then in the event of his or her death there can be one more succession.

- If the current contract-holder succeeds to the contract as a reserve successor (and this includes anyone who succeeded to the contract after the death of a person who was a priority successor), then no further succession is possible.
216. A priority successor will be the spouse or civil partner (or those living together as spouse or civil partner) of the contract-holder who occupied the premises as their only or principal home at the time of the contract-holder's death.
217. A reserve successor is a family member who occupied the premises as their only or principal home at the time of the contract-holder's death. A family member is defined as being
- Spouse or civil partner or living together as spouse or civil partner;
 - The contract-holder's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece (and see section 247) who meet the residence criteria.
218. A reserve successor must also meet the relevant residence criteria that throughout the 12 months preceding the contract-holder's death the person lived in the premises subject to the occupation contract. Such a requirement however does not apply to a spouse or civil partner (or those living together as spouse or civil partner) succeeding as a reserve successor.
219. Where the contract-holder is already priority successor to the current occupation contract, then the period of residence for any reserve successor can also include any periods living with the person the current contract-holder succeeded.
220. There are two classes of person unable to succeed to a contract. Firstly, anyone under 16 years of age (because they cannot be a party to an occupation contract).
221. Secondly, those who occupy the dwelling under a sub-occupation contract, a person who has a sub-occupation contract cannot succeed. Where a sub-occupation contract has ended before the contract-holders death the rules of succession will apply to the former sub holder.

Section 77 – Carer

222. A carer is entitled to succeed as a reserve successor. To qualify as a carer the person must have been caring for (or intending to care for) the contract-holder, or a member of the contract-holder's family who was living with the contract-holder when the care was provided, at any time in the period of 12 months ending with the contract-holder's death.
223. A carer must also meet the residence criteria under section 76(3) and must have no other premises they are entitled to occupy as a home. A carer employed to provide such care does not qualify under this Bill.

Section 78 – More than one qualified successor

224. What happens where more than one person is qualified to succeed:
- If there is only one priority successor that person will succeed.
 - Where there is more than one priority successor they may decide between themselves who the contract-holder will be. If they cannot decide, or they fail to notify the landlord, within a reasonable time, the landlord selects the successor.
 - Where there is more than one reserve successor they may decide between themselves who the contract-holder will be. If they cannot decide, or they fail to notify the landlord, within a reasonable time, the landlord selects the successor.
225. Any decision made by the landlord with regard to the succession can be appealed to the court by any other person qualified to succeed within 4 weeks of the day they were notified of the landlord's decision.

Section 79 – Effect of succession

226. This section makes provision for when successors become the contract-holder. A priority successor takes over the contract either when the landlord is notified of the death of the former contract-holder, or one month after the death, whichever is earlier.
227. In situations where there is more than one successor, the successor becomes the contract-holder either on the date that those with a succession entitlement have decided who will take the contract, or when the landlord makes the selection where agreement cannot be reached between the potential successors.
228. This date will not be applicable where a successor has appealed the decision of the landlord to appoint a different successor. The contract-holder will succeed to the contract in such circumstances on the date the court determines the appeal. This may result in an extended period before a contract-holder is appointed.
229. If in such situations where no contract-holder has been appointed because a decision has not yet been reached, and individuals with a succession right are living in the property, they are not treated as trespassers, but rather as joint contract-holders.
230. Neither a successor nor landlord is liable for any breach of contract which may have occurred before succession, unless breach continues after the succession.

Sections 80 and 81– Substitute succession

231. Section 80(2) provides that where there is only one priority successor, that person will automatically succeed. If the individual who has succeeded to the contract decides within 6 months of the death of the former contract-holder to

end that contract, and there was more than one qualified successor to the original contract, the succession may pass on to the remaining successor. If there is more than one remaining successor, the succession will be determined in accordance with the provisions under section 78.

Section 82 – Notice rights under section 80

232. Where a successor decides to leave the contract within 6 months, he may do so by giving notice or reaching an agreement with the landlord. Following which a landlord is required to give notice to any other successor(s) and/or occupiers of the dwelling within 14 days of the current contract-holder giving them notice (or reaching an agreement). This notice must contain information about the effect of section 80 (substitute succession).

Section 83 – Succession interpretation

233. This section makes provision for the interpretation of terms used in the sections dealing with succession for the purposes of the Act more widely. It includes provision to clarify that where a person succeeds to a fixed term standard contract and at the end of that contract a periodic standard contract arises, the contract-holder under that periodic contract will continued to be treated as a successor to that contract, in the same way that he or she was a successor to the preceding fixed term contract.
234. This section also makes similar provision where a contract is ended on the basis of abandonment (see section 216), but the court decides there was no abandonment and the contract-holder must be given suitable alternative accommodation. .

CHAPTER 9 - LANDLORD'S CONSENT

Section 84 – Landlord's consent: reasonableness

235. Any request from a contract-holder to do something which requires the landlord's consent must be in writing. A landlord can agree the request (subject to any reasonable conditions if required) or refuse it, although the refusal must not be unreasonable. The landlord has 14 days from the request to ask for further information before making a decision. Any request for further information must not be unreasonable.
236. Reasonableness of withholding consent under Schedule six is not applicable to this section. Schedule six is only applicable to sections 50, 58, 115, 119 with regard to a landlord's consent.
237. Where a landlord does not respond a request within the relevant period (which is the period of two months from the date of the request, or in the event of a landlord requesting more information, two months from the date that information is provided), the landlord is treated as having given unconditional consent. Where consent has been refused, or granted subject to certain conditions, a contract-holder may request a written explanation from the landlord for the decision. If the explanation is not received by the contract-holder within two months of the date that the person requests the explanation, the landlord is treated as having given unconditional consent.

Section 85 - Application to the court relating to consent

238. This section confers a right on a person who requests consent to apply to the court on the grounds that the landlord has unreasonably refused consent or attached unreasonable conditions to any consent given.. The court may overturn a landlord's refusal to consent, or any unreasonable conditions attached to any consent, or ask the landlord to reconsider the request.

Section 86 - Landlord's consent: timing

239. This relates to the timing of consent. In circumstances where a contract-holder requires the landlord's consent to do something, for example, to make alterations to the property, the consent can be given retrospectively by the landlord. However, this does not apply to adding additional contract-holders to the contract, nor to transferring the contract to another person (or to a transferral of a joint contract-holder's rights and obligations under the contract).

CHAPTER 10 - COMPENSATION

Section 87 - Compensation for failures relating to provision of written statements etc.

240. This section sets out the other sections in the Bill under which a landlord may become liable to pay compensation to the contract-holder. If a landlord becomes liable under any of those sections, section 88 applies for the purpose of calculating how much compensation is to be paid.
241. Compensation is calculated daily at the equivalent of the daily amount of rent payable. A contract-holder may apply to the court for an order increasing the amount of compensation, if they believe the landlord's failure to provide a written statement of the contract or a written statement relating to a variation was intentional. The contract-holder can also apply for an increase if the written statement of the contract was incomplete or incorrect. In such circumstances, the court may increase the compensation to a maximum of double the original amount payable in respect of any particular day.

Section 88 - Right of set off

242. This section provides a contract-holder with a right of set-off". If a landlord is required to pay a contract-holder compensation for failing to provide a written statement of the contract (or a written statement relating to a variation or for providing an incorrect or incomplete contract) the contract-holder may withhold rent to the value of the outstanding compensation.

PART 4 - CONDITION OF DWELLING

CHAPTER 1

Section 89 - Application of Part 4

243. Part 4 makes provisions relating to the condition of the dwellings. These provisions apply to secure contracts, periodic standard contracts and fixed term standard contracts made for a period of less than seven years. Section 213 (retaliatory claims for possession to avoid obligations to repair etc.) provides for the court to have discretion over whether to make a possession

order if it is satisfied the landlord made the possession claim to avoid complying with the obligations in Part 4.

Section 90 – Fixed term standard contracts: determining the length of term

244. This section makes provision for determining whether certain fixed term standard contracts are to be treated as being made for less, or more, than, seven years. This is important because the obligations set out in Part 4 apply only to fixed term standard contracts made for a term of less than seven years.
245. Subsection (4) provides that if a fixed term standard contract is of a term for more than seven years, but may be terminated by the landlord before the end of that seven year period, it will be treated as being made for a term of less than seven years. Such a situation would apply to a contract with a 'landlord's break clause' that applies within seven years of the start of the contract.
246. Subsection (5) provides that if a fixed term standard contract has, at the discretion of the contract-holder, an option for renewal which, if exercised, would result in the initial term and renewed term taken together being for a period of more than seven years, the contract is not be treated as being made for a period of less than seven years, unless it is a contract to which subsection (4) applies.

CHAPTER 2 - CONDITION OF DWELLING

247. Chapter 2 makes provisions relating to the condition of dwellings. Sections 91, 92, 93, 95, 96, 97, 98 and 99 are fundamental provisions applying to all occupation contracts to which Part 4 applies (see Chapter 1).

Section 91 – Landlord's obligation: fitness for human habitation

248. A landlord is required to ensure the dwelling is fit for human habitation throughout the term of the contract. Section 94 makes further provision as to the determination of fitness.

Section 92 - Landlord's obligation to keep dwelling in repair

249. This section requires a landlord to keep the dwelling in repair. This applies to the structure and exterior of the dwelling as well as to service installations (for example, in relation to water, gas, electricity, heating and sanitation).

Section 93 – Obligations under sections 91 and 92

250. The landlord is required to rectify any damage caused as a result of works carried out in order to comply with the fitness for human habitation and repairing obligations. Furthermore, the landlord must not place any obligations on the contract-holder if the contract-holder enforces the landlord's obligations. For example, the landlord cannot include a term in the contract which requires the contract-holder to pay for any repairs which would fall within sections 91 or 92.

Section 94 – Determination for fitness for human habitation

251. The Welsh Ministers may set out specific matters to be considered in the determination of fitness for human habitation. This may be done by reference to the Regulations made by the Welsh Ministers under Section 2 of Housing Act 2004 (which concern the Housing Health and Safety Rating System). These Regulations set out 29 hazard types, including damp and mould growth, excess cold and risk of fire.

Section 95 - Limits on sections 91 and 92: general

252. A landlord's obligations to keep the dwelling fit for human habitation and in repair do not apply where the landlord could not do so without incurring unreasonable expense. The landlord is also not required to rebuild a dwelling destroyed by fire, storm or flood.

Section 96 – Limits on section 91 and 92: contract-holders fault

253. A landlord is not obliged to make a dwelling fit for human habitation or to undertake repairs, where the dwelling is unfit or in need of repair due to action, inaction, or lack of care on the part of the contract-holder or other permitted occupier.

Section 97 - Limits on section 91 and 92: notice

254. The landlord's obligations under sections 91 and 92 apply only once the landlord becomes aware of the need for works or repairs. To comply, the landlord must carry out the necessary works or repairs within a reasonable time after becoming aware. If there is a change of landlord, the new landlord is treated as being aware action is necessary from the date of transfer if the old landlord was aware works or repairs were required before the change.

Section 98 – Landlord's right to access dwelling

255. A landlord has the right to enter the property at any reasonable time to inspect or undertake repairs, but must give the contract-holder at least 24 hours' notice before doing so (in the event of an emergency, the landlord has other rights under the law to access the property without giving notice). However, the landlord is not liable for failing to comply with the fitness for human habitation and repairing obligations if the necessary works or repairs require access to as part of the building which the landlord does not have a right to access, and has been unable to gain access after making reasonable effort.

Section 99 – Right of permitted occupiers to enforce

256. In addition to the contract-holder, a permitted occupier of the dwelling who suffers as a result of the landlord not complying with the fitness for habitation or repairing obligations may also bring court proceedings against the landlord in their own right. 'Permitted occupier' is defined in Section 241.

CHAPTER 3 – MISCELLANEOUS

257. This Chapter, unlike Chapter 2, applies to all occupation contracts. It addresses two separate issues which both concern the obligations of landlords and contract-holders in relation to the maintenance and repair of dwellings.

Section 100 - Specific performance

258. This section provides that the court may order a landlord to undertake repairs despite any rule in common law that might otherwise limit this. It also provides a definition of repairing obligations, which apply to both the fitness for human habitation obligation (Section 91) and the requirement to keep the dwelling in repair (Section 92).

Section 101 - Waste and tenant-like user

259. This section provides that the common law concepts of 'waste' and 'tenant-like manner' do not apply in relation to occupation contracts. 'Waste' is damage or harm caused by actions or neglect on the part of the contract-holder, whilst 'tenant-like manner' means taking care of the property on a day to day level (for example unblocking a sink or replacing a fuse). It is envisaged that a supplementary provision will be made by regulations that will require a contract-holder to take care of the premises and of any fixtures and fittings.

PART 5 - PROVISIONS APPLYING ONLY TO SECURE CONTRACTS

CHAPTER 1

Section 102 - Overview

260. Sections 103 to 110 set out provisions relating only to secure contracts.

CHAPTER 2 - VARIATION OF CONTRACTS

261. A variation of a contract is a change to the terms of the contract which is made after the contract comes into force. This can include the removal or addition of entire terms as well as the amendment of existing terms (subject to the limitations set out in the Bill). It does however not cover any change to the identity of the landlord or the contract-holder, which is dealt with under section 40.

Section 103 - Variation

262. This section provides that secure contracts may only be varied in accordance with sections 104 to 107 or as a consequence of legislation made by Parliament or the National Assembly for Wales. A variation must be permissible under section 108. Section 103 (1)(b) and (2) are fundamental provisions which must be incorporated into secure contracts without modification. This is to ensure that variations of a secure contract do not undermine the operation of the fundamental provisions in the Bill, and of supplementary provisions made under the Bill.

Sections 104 and 105 - Variation of rent and other consideration

263. These sections are fundamental provisions, to be incorporated within contracts as fundamental terms, setting out how the terms of the contract as to rent or other consideration (which are terms relating to key matters) may be varied. The contract-holder under a secure contract must be given two months' notice of any change in the amount of rent or other consideration payable. The provisions allow for annual variation.

Section 106 - Variation of fundamental terms

264. Fundamental terms in a secure contract may be varied if the landlord and contract-holder agree. Exceptions to this are set out in section 108(1) to (3) and include the fundamental terms incorporating fundamental provisions that must be incorporated without modification, such as section 55 dealing with prohibited conduct. Any permitted variation of a fundamental term must also improve the position of the contract-holder.

Section 107 - Variation of supplementary and additional terms

265. Supplementary or additional terms of the contract can be varied, either by the landlord and contract-holder agreeing to do so, or by the landlord giving the contract-holder notice that such a term is to be varied; but this is subject to the restrictions of section 108(4) and (5). Where the variation is by notice, the landlord must give the contract-holder a preliminary notice before the variation is to take place, providing information on the proposed variation and providing a reasonable opportunity for the contract-holder to comment, which must be for a period of at least one month. Having done so, the landlord may then issue a further notice informing the contract-holder of the variation that is to take place and when it will take effect.

Section 108 - Limitation on variations

266. This section places limits on the variation of contractual terms. Subsections (1) to (3) deal only with fundamental terms, excluding certain terms from variation (unless as a result of legislation) and providing that a variation either incorporates a fundamental provision without modification or improves the contract-holder's position. Subsections (4) and (5) limit the variation of terms such that they do not conflict with fundamental terms, unless the variation results from legislation. To ensure the ability to vary terms cannot be altered, this section is also a fundamental provision which must be incorporated into contracts without modification.

Section 109 - Written statement of variation

267. Where a variation has been made under sections 104 to 107, or through legislation, the landlord must provide either a written statement of the variation(s) or a copy of the occupation contract with the varied term included. This must be provided within 14 days of the date on which the contract was varied and the landlord cannot charge a fee for this. This is a fundamental provision that is incorporated as a fundamental term into all secure contracts.

Section 110 - Failure to provide written statement etc.

268. A landlord who fails to provide a written statement in accordance with section 109 is liable to pay the contract-holder compensation under section 85. This section also provides that interest accrues on the compensation if the landlord fails to provide the statement.

CHAPTER 3 - JOINT CONTRACT-HOLDERS: WITHDRAWAL

Section 111 – Withdrawal

269. Where there is more than one contract-holder under an occupation contract, any of those contract-holders may cease to be a party to the contract without bringing the contract to an end.
270. A contract-holder who intends to leave a secure contract must provide the landlord with a 'withdrawal notice'. The notice must state the date on which they intend to cease being a party to the contract, and they must also provide the other joint contract-holders with a written warning of their intention to leave the contract and a copy of the withdrawal notice at the same time as giving the notice to the landlord. As additional protection, the landlord must also provide the other contract-holders with a written warning and a copy of the notice.
271. If, instead of providing a withdrawal notice under this section, a joint contract-holder gives a notice under section 162 (contract-holder's notice to end contract), that notice has the same effect as a withdrawal notice.

Section 112 - Withdrawal: power to prescribe time limits

272. The section provides the Welsh Ministers with a regulation-making power. It enables a minimum notice period to be set for a joint contract-holder to inform the landlord that he or she intends to leave a contract by giving notice under section 112.

CHAPTER 4 - DEALING

273. Chapter 4 sets out specific provisions relating to dealing under secure contracts, specifically the ability to take in a lodger and to transfer the contract to a potential successor

Section 113 – Lodgers

274. A contract-holder under a secure contract may take in a lodger. 'Lodger is defined in section 241. The landlord's permission is not required to do this.

Section 114 and 115 - Transfer to potential successor

275. A contract-holder under a secure contract may, with the landlord's consent, transfer the occupation contract to the following persons: a potential successor, or where there is more than one potential successor, those successors who would wish to succeed if the contract-holder were to die. Schedule 6 applies to what is reasonable for the landlord to take into account in considering consent.

CHAPTER 5 - PROHIBITED CONDUCT STANDARD CONTRACTS

Section 116 - Order imposing periodic standard contract because of prohibited conduct and Section 117 - Conversion to secure contract

276. Applies to a secure contract with a community landlord or registered charity, in circumstances where a contract-holder has breached the term incorporating section 55 (anti-social behaviour and other prohibited conduct).

277. Rather than pursue eviction, this section enables the landlord to apply to a court to seek an order to end the secure contract and impose in its place a 'prohibited conduct standard contract', which is a type of periodic standard contract. The court may only make such an order where it is satisfied the breach occurred, it would otherwise have made an order for possession in relation to the breach, the landlord will provide support to the contract-holder to prevent prohibited conduct, and it considers it reasonable to make the order. The Welsh Ministers may make issue guidance as to what might be included in a support programme.
278. A prohibited conduct standard contract will last for 12 months, referred to as the 'probation period'. The probation period can be extended to 18 months. . A prohibited conduct standard contract will become a secure contract if it continues beyond the end of the probation period.
279. Schedule 7 makes further provisions relating to prohibited conduct standard contracts. The schedule sets out the procedure a landlord must follow to make an application for an order to the court and how the terms of the prohibited conduct standard contract are determined. It also makes provisions regarding the probation period and how it can be extended. A decision to extend is subject to internal review by the landlord and, potentially, a review by the county court also. A contract-holder may, after six months, apply to the court for an order to end the probation period early.

CHAPTER 6 - PROVISION APPLYING ONLY TO SECURE CONTRACTS WITH COMMUNITY LANDLORDS

Sections 118 - Transfer to another secure contract-holder and Section 119 - Transfer to another secure contract-holder: landlord's consent

280. This section enables a contract-holder of a community landlord who has a secure contract, with the landlord's consent, to transfer their contract to another contract-holder of a community landlord who also has a secure contract.
281. Under section 119, what is reasonable for the landlord to take into account when considering consent is to be determined in accordance with Schedule 6. Paragraphs 12 and 13 of Schedule 6 enable the landlord to make it a condition of consent that, if the transfer is part of a wider series of transfers, it will only be granted if all the other transfers in that series take place. The landlord may also make it a condition that, if the person to whom the contract is being transferred is a priority or reserve successor in relation to his or her existing contract, he or she will be treated as such under the contract transferred to him or her.

PART 6 - PROVISIONS APPLYING ONLY TO PERIODIC STANDARD CONTRACTS

CHAPTER 1

Section 120 - Overview

282. Section 120 provides an overview of Part 6.

CHAPTER 2 – EXCLUSION OF CONTRACT-HOLDER FROM DWELLING FOR SPECIFIC PERIODS

Section 121 – Periodic standard contracts: exclusion of contract-holder from dwelling for specific periods.

283. A periodic standard contract may specify periods when the contract-holder cannot occupy the property. This will be particularly useful in relation to certain kinds of contract-holder and certain kinds of landlord. For example, in relation to contract-holders who are students, as student accommodation is often used for alternative purposes during vacation periods.

CHAPTER 3 - VARIATION OF CONTRACTS

Section 122 - Variation

284. This section sets out the scope for the variation of periodic standard contracts. The approach is similar to that for secure contracts as set out in section 103. Any variations must be in accordance with sections 122 to 126. Again, similarly to secure contracts, section 127 places limits on varying fundamental terms that incorporate certain fundamental provisions, such as that dealing with prohibited conduct (section 55), and requires permitted variations to improve the position of the contract-holder.

Sections 123 and 124 – Variation of rent and other consideration

285. These sections are fundamental provisions, to be incorporated within contracts as fundamental terms, setting out how the terms of the contract as to rent or other consideration (which are terms relating to key matters) may be varied. The contract-holder under a periodic standard contract must be given two months' notice of any change in the amount of rent or other consideration payable. The provisions allow for annual variation.

Section 125 – Variation of other terms

286. Subject to the restrictions set out in section 127, the fundamental, supplementary and additional terms of a periodic standard contract may be varied by agreement between the landlord and the contract-holder or by the landlord in accordance with section 126 (providing the contract incorporates section 172 (landlord's notice to end contract)).

Section 126 - Variation by landlord of other terms: notice procedure

287. Under a periodic standard contract, a landlord may vary a term without the agreement of the contract-holder. To do so, he or she must provide the contract-holder with a notice detailing the proposed variation at least two months beforehand. The notice must also state that it serves as a notice under section 172 (landlord's notice to end contract). If the contract-holder does not give written consent to the variation before it is due to take effect, the landlord may seek possession of the property under section 176 (landlord's notice). Subsection (5) makes provision that, if the landlord has complied with the requirements of the section, then he or she is to be treated as having given the required notice under section 172 (landlord's notice ground).

Section 127 - Limitation of variations

288. Section 127 limits the variation of terms in periodic standard contracts in the same way as section 109 does in relation to secure contracts. Subsections (1) to (3) deal only with fundamental terms, excluding certain terms from variation (unless as a result of legislation) and providing that a variation either incorporates a fundamental provision without modification or improves the contract-holder's position. Subsections (4) and (5) limit the variation of any terms such that they do not conflict with fundamental terms, unless the variation results from legislation.

Section 128 - Written statement of variation

289. Where a variation has been made under sections 123 to 126, or through legislation, the landlord must provide either a written statement of the variation(s) or a copy of the occupation contract with the varied term included. This must be provided within 14 days of the date on which the contract was varied and the landlord cannot charge a fee for this.

Section 129 - Failure to provide written statement etc.

290. A landlord who fails to comply with section 128 is liable to pay the contract-holder compensation under section 87. This section also provides that interest accrues on the compensation if the landlord fails to provide the statement.

CHAPTER 4 - JOINT CONTRACT-HOLDERS: WITHDRAWAL

Section 130 - Withdrawal

291. Where there is more than one contract-holder under an occupation contract, any of those contract-holders may cease to be a party to the contract without bringing the contract to an end.
292. A contract-holder who intends to leave a periodic standard contract must provide the landlord with a 'withdrawal notice'. The notice must state the date on which they intend to cease being a party to the contract, and they must also provide the other joint contract-holders with a written warning of their intention to leave the contract and a copy of the withdrawal notice at the same time as giving the notice to the landlord. As additional protection, the landlord must also provide the other contract-holders with a written warning and a copy of the notice.
293. If, instead of providing a withdrawal notice under this section, a joint contract-holder gives a notice under section 167 (contract-holder's notice to end contract), that notice has the same effect as a withdrawal notice.

Section 131 - Withdrawal: power to prescribe time limits

294. The section provides the Welsh Ministers with a regulation-making power. It enables a minimum notice period to be set for a joint contract-holder to inform the landlord that he or she intends to leave a contract by giving notice under section 130.

PART 7 - PROVISIONS APPLYING ONLY TO FIXED TERM STANDARD CONTRACTS CHAPTER 1

Section 132 – Overview

295. Sections 121 to 129 deal with matters relating to fixed term standard contracts.

CHAPTER 2 – EXCLUSION FOR SPECIFIED PURPOSES

Section 133 – Fixed term standard contracts: exclusion of contract-holder from dwelling for specific periods.

296. A fixed term standard contract may specify periods when the contract-holder cannot occupy the property. This will be particularly useful in relation to certain kinds of contract-holder and certain kinds of landlord. For example, in relation to contract-holders who are students, as student accommodation is often used for alternative purposes during vacation periods.

CHAPTER 3 – VARIATION OF CONTRACTS

Section 134 and 135 – Variation and Limitation on variation

297. This section sets out the scope for the variation of fixed term standard contracts again, the approach is similar to that for secure contracts and periodic standard contracts. Any variations must be in accordance with section 135, which places limits on varying fundamental terms that incorporate certain fundamental provisions, such as that dealing with prohibited conduct (section 55), and requires other variations to improve the position of the contract-holder.

Section 135 – Restriction of certain variations of terms

298. Section 135 limits the variation of terms in fixed term standard contracts in a similar way to other contracts. Subsections (1) to (3) deal with fundamental terms, excluding certain terms from variation (unless as a result of legislation) and providing that a variation either incorporates a fundamental provision without modification or improves the contract-holder's position. Subsections (4) and (5) limit the variation of any terms such that they do not conflict with fundamental terms, unless the variation results from legislation.

Section 136 – Written statement of variation

299. Where a variation has been made under section 135, or through legislation, the landlord must provide either a written statement of the variation(s) or a copy of the occupation contract with the varied term included. This must be provided within 14 days of the date on which the contract was varied and the landlord cannot charge a fee for this. This is a fundamental provision that is incorporated as a fundamental term into all secure contracts.

Section 137 – Failure to provide written statement etc.

300. A landlord who fails to comply with section 136 is liable to pay the contract-holder compensation under section 87. This section also provides that interest accrues on the compensation if the landlord fails to provide the statement.

CHAPTER 4 - JOINT CONTRACT-HOLDERS: WITHDRAWAL FIXED TERM STANDARD CONTRACTS WITH CONTRACT-HOLDER'S BREAK CLAUSE

Section 138 – Withdrawal of joint contract-holder using contract-holder's break clause

301. A fixed term standard contract can include a contract-holder's break clause which enables a contract-holder to end the contract before the end of the fixed term (see section 186). This section provides for such a contract to enable a notice given by a joint contract-holder under a break clause to be treated as a withdrawal notice. However, where this is the case, the contract must also include provisions equivalent to subsections (4) and (5) of sections 111 and section 130.

CHAPTER 5 - DEALING: TRANSFERS

Section 139 – Transfer on death of sole contract-holder

302. A fixed term standard contract may include a provision that, in the event of the death of the contract-holder, the contract may be transferred to another person as part of the administration of the estate of the deceased contract-holder. If this provision is included, the right of succession under section 73 will not apply, and section 154 (termination of contract on the death of the contract-holder) is not incorporated as a term of the contract.

Section 140 – Forced transfers

303. A fixed term standard contract may include provisions allowing a joint contract-holder to require the other joint contract-holder(s) to join in to a transfer of the contract, and allowing that joint contract-holder to apply for a court order, requiring those other joint contract-holders to do so.

Section 141 – Joint contract-holder's interest

304. Where a fixed term standard contract contains a term that allows a joint contract-holder to transfer their interest in the contract to another person, the contract must require that contract-holder to provide notice of the transfer to the other joint contract-holders. (and that if he or she fails to do so, the transfer is not made). The contract must also provide that the transferee may only occupy the dwelling with the consent of the other joint contract-holders.

Section 142 – Transfer on death of contract-holder

305. This section applies where a fixed term standard contract contains a term which provides that, in the event of the death of a joint contract-holder, his or her interest will be transferred to another person as part of the administration of the his or her estate. If the contract contains such a term, the contract must require that contract-holder to give notice to the other joint contract-holders that such a transfer will be made on his or her death (and that if he or she fails to do so, the transfer is not made). The contract must also provide that the transferee may only occupy the dwelling with the consent of the other joint contract-holders.

PART 8 - SUPPORTED STANDARD CONTRACTS

306. Part 8 contains provision for supported standards contracts. These contracts are standard contracts for use within supported accommodation by community landlords and registered charities.

Section 143 - Supported standard contract and supported accommodation

307. This section defines 'supported standard contracts' and 'supported accommodation'. Supported accommodation is accommodation that is provided by a community landlord or registered charity where support services are provided to the contract-holder in connection with the accommodation. Subsection 4 defines 'support services' as, for example, help with overcoming addiction, with finding employment and with living independently. Subsection 5 defines 'support' as, for example, advice and training.

Section 144 - Mobility

308. A supported standard contract can include provision about 'mobility'. This enables a landlord to relocate a contract-holder to a different dwelling within the same building without the need to end one contract and make another. This is designed to enable the landlord to, for example, locate a contract-holder away from another contract-holder to avoid disputes.

Section 145 - Temporary exclusion

309. A further power provided in relation to a supported standard contract is temporary exclusion. This allows the landlord (including persons designated by the landlord to act on the landlord's behalf) to require a contract-holder to leave the dwelling for up to 48 hours where the landlord reasonable believes the contract-holder has engaged in certain kinds of behaviour. Such behaviour may be the use of violence against anyone else in the premises, creating a significant risk of harm to others or behaviour which seriously impedes other residents' ability to benefit from the support provided.
310. A contract-holder cannot be excluded for more 48 hours at a time and cannot be excluded more than three times in any six month period. A landlord must give notice to the contract-holder being excluded, explaining why he or she is being excluded. This notice should be given when the contract-holder is required to leave or as soon as possible afterwards.

PART 9 - TERMINATION ETC. OF OCCUPATION CONTRACTS

CHAPTER 1 - OVERVIEW AND INTRODUCTORY PROVISIONS

Section 146 - Overview of Part

311. An overview of this part is provided by a table setting out the occupation contracts to which each chapter applies and the content of each chapter.

Section 147 - Permissible termination

312. An occupation contract may only be ended in accordance with the relevant fundamental terms that apply to that type of contract or in accordance with provisions in other legislation, including the Bill. This does not effect the possibility of a contract being rescinded by the landlord or the operation of

the law of frustration (for example the setting aside of a contract due to a circumstance rendering the contractual obligations impossible).

Section 148 and 149 Possession claims and notices

313. Section 148 provides that a possession claim may only be made to the court in the circumstances set out in Chapters 3 to 5 and 7. A landlord wishing to make a possession claim must first issue the contract-holder with a possession notice, with the exception of the landlord's notice ground (section 172) and where a landlord has given notice to end a fixed term standard contract under section 183, to which different requirements apply.
314. A possession notice is a written warning that the landlord is seeking to regain possession of the dwelling. Section 149 details what a possession notice must contain. This includes the ground under which the notice has been given (the reason the landlord is seeking possession), the landlord's intention to make a possession claim to the court, and the date after which the landlord can make this claim.

Section 150 – Introductory standard contracts and prohibited contracts: notices under section 172 and 179

315. In relation to an introductory standard contract or a prohibited conduct standard contract, a notice given by a landlord before making a possession claim under sections 176 (landlord's notice) or 179 (serious rent arrears), must also set out the contract-holder's right to review (under section 198) of the decision to seek possession.

CHAPTER 2 - TERMINATION ETC. WITHOUT A POSSESSION CLAIM ALL OCCUPATION CONTRACTS

Section 151 – Early termination by contract-holder

316. A contract-holder may, before the earlier of receiving the written statement of the contract or becoming entitled to occupy the dwelling, end the contract by giving the landlord notice. Any rent, deposit or other consideration given in connection with the contract must be returned by the landlord. Where a landlord provides the written statement before the occupation date, the contract-holder may not end the contract under this section after being given the written statement.

Section 152 – Termination by agreement

317. This section provides for an occupation contract to be ended by agreement between the contract-holder and landlord. The contract ends when the contract-holder gives up possession as agreed. If the contract-holder does not leave, then a substitute occupation contract, as defined under subsection 2, is made.

Section 153 – Repudiatory breach by landlord

318. A contract-holder may end a contract, if the landlord has committed a repudiatory breach of the contract, by giving up possession of the property. A repudiatory breach is one so significant as to justify termination, for example

cutting off of the water supply or allowing the property to fall into severe disrepair.

Section 154 – Death of sole contract-holder

319. Where a sole contract-holder dies, the contract ends one month after their death or, if earlier, when the landlord is informed of the death. If another person is entitled to succeed to the tenancy, the succession will take place in accordance with sections 73 to 83.
320. If a family property order (defined in section 248) requires the contract to be transferred to someone else, the contract will be dealt with in accordance with that order.
321. This section is a fundamental provision which is incorporated without modification as a term of all occupation contracts. The exception to this incorporation is a fixed term standard contract that contains the provision mentioned in section 139(1) (transfer on death of sole contract-holder).

Section 155 - Death of landlord where occupation contract is a licence

322. An occupation contract which is a licence ends on the death of the landlord.

**CHAPTER 3 - TERMINATION OF ALL OCCUPATION CONTRACTS
(POSSESSION CLAIM BY LANDLORD)**

Section 156 – Breach of contract by contract-holder

323. This section provides for breach of the contract by the contract-holder to be a ground on which the landlord may seek possession. Under section 205, the court may only make a possession order if it considers it reasonable to do so (with reasonableness being determined in accordance with Schedule 9).

Section 157 – False statement inducing landlord to make contract to be treated as breach of contract

324. This section provides that a breach of contract includes circumstances where a landlord is induced to enter into an occupation contract as a result of a false statement made by the contract-holder or someone acting on the contract-holder's behalf.

Section 158 – Restrictions on section 156

325. This provides that a landlord, before making a possession claim under section 156, must give the contract-holder a possession notice setting out that ground. Subsection (2) provides that where the landlord relies on the prohibited conduct ground, the landlord may make a claim on the day the notice is given to the contract-holder. Subsection (3) provides that in the case of other breaches, the landlord may not make the claim before the end of 1 month after the date the landlord give notice. Subsection (4) provides that any possession claim must be made within 6 months of the date of the landlord giving the notice.

Sections 159 and 160 – Estate management grounds and restrictions

326. A landlord who wishes to apply for possession of a dwelling using one of the estate management grounds (set out in Part 1 of Schedule 8), may apply to the court which (as set out in section 206) must be satisfied that:
- suitable alternative accommodation will be provided to the contract-holder: and
 - it is reasonable to grant possession under the relevant ground (with reasonableness determined in accordance with Schedule 9).
327. Should the court make an order for possession, the landlord must pay the reasonable relocation expenses incurred by the contract-holder. This is with the exception of Grounds A and B, under which the contract-holder is entitled to a 'home loss payment' under section 29 of the Land Compensation Act 1973.
328. A landlord seeking possession of a dwelling on an estate management ground must give the contract-holder a possession notice specifying the ground. The landlord may not make a possession claim within one month, or after six months, of the date the notice was given.
329. If a redevelopment scheme is approved (under Part 2 of Schedule 8) subject to any conditions, the landlord may give a possession notice under estate management Ground B (redevelopment scheme) before these conditions are met.
330. A landlord seeking possession under estate management ground G (accommodation not required by successor) cannot serve the possession notice within six months, or after twelve months, from the date on which the landlord became aware of the previous contract-holder's death.
331. A landlord seeking possession under estate management ground H (departing joint contract-holder) must serve the possession notice within six months from the date on which the joint contract-holder withdrew or was excluded.

Section 161 - Estate management grounds: redevelopment schemes

332. Part 2 of Schedule 8 (approval of redevelopment schemes) makes provision supplementing estate management ground B.

Schedule 8 - Estate Management Grounds

Part 1 – The Grounds

333. Part 1 of this Schedule sets out the estate management grounds under which landlords of all occupation contracts can make a possession claim, subject to having complied with the notice requirements and time limits in section 160.
334. There are three principal types of ground: redevelopment grounds; special accommodation grounds; and under-occupation grounds. There is also an 'other estate management reasons' ground to address a substantial estate management reason not covered by the other grounds.

REDEVELOPMENT GROUNDS

Paragraph 1 - Ground A (building works)

335. The landlord intends to demolish, rebuild or carry out work on the dwelling which could not be done without obtaining possession of the dwelling.

Paragraph 2 - Ground B (redevelopment schemes)

336. The dwelling, or part of it, is in an area which is subject to an approved redevelopment scheme. The approval process for such schemes is set out in Part 2 of the Schedule.

SPECIAL ACCOMMODATION GROUNDS

Paragraph 3 - Ground C (charities)

337. Where the landlord is a charity and the continued presence of the contract-holder would conflict with the objects of that charity. This is subject to the proviso that at the time the contract was made, and at all times since that date, any person who was the landlord has been a charity.

Paragraph 4 - Ground D (dwellings suitable for disabled people)

338. The dwelling is adapted or specially designed to accommodate a person with a physical disability, no such person currently lives in the property and the landlord requires it for such a person.

Paragraph 5 - Ground E (housing associations and housing trusts: people difficult to house)

339. The landlord is housing association or housing trust that provides accommodation only for those who are difficult to house. The landlord requires the dwelling to house such a person, and either no such person currently lives in the property, or such a person has been offered a secure contract by a local housing authority elsewhere. Paragraph 5(2) defines the term 'difficult to house' for the purpose of this ground.

Paragraph 6 - Ground F (groups of dwelling for people with special needs)

340. The dwelling is part of a larger group of dwellings which the landlord provides as accommodation for people with special needs. Furthermore, there is a social service or special facility in close proximity to assist people with special needs. The ground is that there is no longer a person with special needs living in the dwelling and the landlord requires the dwelling for such a person.

UNDER-OCCUPATION GROUNDS

Paragraph 7 - Ground G (reserve successors)

341. The contract-holder succeeded to the contract as a reserve successor, and the dwelling is larger than reasonably required by that contract-holder. In such cases, under section 160(4), the landlord may not issue the possession notice until at least six months have passed since the death of the previous contract-holder, and no later than twelve months after this date.

Paragraph 8 - Ground H (joint contract-holders)

342. A joint contract-holder has withdrawn or been excluded from the contract, and either the property is larger than reasonably required by the remaining contract-holder(s), or, if the landlord is a community landlord, the remaining contract-holder(s) do not meet the landlord's allocation criteria. In such cases, under section 160(5), the possession notice must be given to the remaining contract-holder(s) within six months of the former contract-holder departing.

OTHER ESTATE MANAGEMENT REASONS

Paragraph 9 - Ground I - (other estate management reasons)

343. This ground allows for possession of a dwelling in relation to any other substantial estate management reason. As with all the estate management grounds, suitable alternative accommodation must be available and the court has discretion as to whether to grant a possession order.

PART 2 - APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND B

344. Part 2 of Schedule 8 sets out the process for obtaining approval from the Welsh Ministers, for the purposes of estate management Ground B, for a "redevelopment scheme"; that is, a scheme for the disposal and redevelopment of an area of land.

Paragraph 11

345. In addition to providing for the approval of redevelopment schemes and any variations, this paragraph defines the terms 'disposal' and 'redevelopment'. Disposal may come before or after the redevelopment. Variations to approved schemes are also possible, and this Part also concerns approval of variations.

Paragraph 12

346. This paragraph sets out the requirements in relation to the notice that must be given to contract-holders if a redevelopment scheme is proposed, or if a variation of such a scheme has been proposed. It provides for a 28 day period during which the contract-holder may make representations. No application can be made to the Welsh Ministers to approve a redevelopment scheme, or variation of a scheme, before any such representations are considered. Where a landlord would otherwise be required to consult the contract-holder under section 231, subparagraphs (6) and (7) have the effect of removing the obligation under section 231.

Paragraph 13

347. This paragraph sets out the matters that must be taken into account by the Welsh Ministers in considering an application, including any representations made to them. The landlord must also give the Welsh Ministers information on any representations made under paragraph 12.

Paragraph 14

348. The Welsh Ministers may not approve a scheme or variation which includes in the area subject to the scheme only part of a dwelling or a dwelling

unaffected by works, but which is proposed to be included in the disposal of land associated with the scheme, unless satisfied that inclusion is justified

Paragraph 15

349. This paragraph enables the Welsh Ministers to give any approval subject to conditions, and to make it valid only for a limited time. Conditions and time limits can be varied by the Welsh Ministers on the application of the landlord, or of their own volition.

Paragraph 16

350. This paragraph provides that, for the purposes of Part 2, a community landlord is a landlord in relation to a dwelling if it as any kind of interest in the dwelling.

CHAPTER 4 - TERMINATION OF SECURE CONTRACTS (CONTRACT-HOLDER'S NOTICE)

Sections 162 and 163 - Contract-holder's notice and Minimum notice period

351. These sections provide that the contract-holder may end the occupation contract by giving at least four weeks' notice to the landlord.

Section 164 - Recovery of possession

352. This section enables a landlord to recover possession of the dwelling in the event of a contract-holder, having given notice to the landlord under section 162, failing to give up possession on the date specified in that notice.
353. Under section 208, the court must make an order for possession if it is satisfied notice was given under section 162, subject to any available defence based on the contract-holder's human rights.

Section 165 - Restriction on section 164

354. This section sets out restrictions on the exercise of the landlord's power to obtain possession under the ground in section 164. If the landlord seeks possession on this ground, the landlord must give the contract-holder a possession notice specifying the ground. The landlord may make a possession claim from the day the possession notice is given to the contract-holder, but not more than six months after that day.

Section 166 - Termination of contract on contract-holder's notice

355. Provides that, where the contract-holder gives up possession of the dwelling on or before the date specified in the notice given under section 162, the contract will continue to run until that date. Where the contract-holder gives up possession after the date specified in the notice, the contract ends on the date the contract-holder gives up possession. Alternatively, if a possession order is made on the ground in section 164, the contract will end in accordance with section 202 (effect of possession order).
356. If the contract-holder before the end of the notice period, withdraws the notice given under section 162, and the landlord does not object to this, in writing, within a reasonable period, the notice ceases to have effect (under section 166(3)).

CHAPTER 5 - TERMINATION OF PERIODIC STANDARD CONTRACTS

Section 167 and 168 - Contract-holder's notice and Minimum notice period

357. These sections provide that the contract-holder may end the occupation contract by giving at least four weeks' notice to the landlord.

Section 169 – Recovery of possession

358. This section enables a landlord to recover possession of the dwelling in the event of a contract-holder, having given notice to the landlord under section 167, failing to give up possession on the date specified in that notice.
359. Under section 211, the court must make an order for possession if it is satisfied notice was given under section 167, subject to any available defence based on the contract-holder's human rights.

Section 170 – Restriction on section 169

360. This section sets out restrictions on the exercise of the landlord's power to obtain possession under the ground in section 169. If the landlord seeks possession on this ground, the landlord must give the contract-holder a possession notice specifying the ground within two months of the date the contract-holder was due to give up possession. The landlord may make a possession claim from the day the possession notice is given to the contract-holder, but not more than six months after that day.

Section 171 - Termination of contract on contract-holder's notice

361. This section provides that, where the contract-holder gives up possession of the dwelling on or before the date specified in the notice given under section 167, the contract will continue to run until that date. Where the contract-holder gives up possession after the date specified in the notice, the contract ends on the date the contract-holder gives up possession. Alternatively, if a possession order is made on the ground in section 169, the contract will end in accordance with section 202 (effect of possession order).
362. If the contract-holder, , before the end of the notice period, withdraws the notice given under section 167., and the landlord does not object to this, in writing, within a reasonable period, the notice ceases to have effect (under section 171(3)).

Sections 172 and 173 – Landlord's notice and minimum notice period

363. These sections are fundamental provisions in relation to periodic secure contracts. Section 172 provides that a landlord of a periodic standard contract may end that contract by giving the contract-holder notice that he or she must give up possession of the property on a date specified in the notice. Where this section is not incorporated within an occupation contract a landlord cannot vary the terms of the contract under sections 126 and 127 (variation by notice).
364. Section 173 sets out the minimum notice period. The landlord cannot specify a date by which a person must give up possession which is less than two months from the date on which the notice is given.

Section 174 – Restrictions on section 172: breach of information requirements

365. Where a landlord has not provided the contract-holder with a written statement of their contract, as required by section 31(1), they may not give a possession notice under section 172. Furthermore, the landlord is prevented from issuing a notice under section 172 for a period of six months, starting with the day the written statement is provided.
366. Where a landlord has failed to provide contact details, or any of the other information required under section 39, to the contract-holder, the landlord is prevented from issuing a notice under section 172 until such details are provided.

Section 175 - Restrictions on section 172: breach of security and deposit requirements

367. A landlord may not give a possession notice under section 172 where security has been taken in a form that does not comply with section 43 (that is, a form other than money or a guarantee) and has not been returned.
368. A landlord is also prevented from issuing a notice under section 172 (subject to the exception below) where: a deposit has not been protected under an authorised scheme; a deposit has been paid but the landlord has not met the initial requirements of the deposit scheme; or a deposit has been paid but the required information has not been provided to the contract-holder.
369. The restrictions in the paragraph above do not apply where a deposit has been returned or an application to the court under paragraph 2 of Schedule 5 has been concluded.

Section 176 – Recovery of possession

370. Where a landlord has given a notice complying with section 173, the landlord may make a claim for possession to the court. Section 211 provides that the court must make an order for possession if satisfied that the ground in section 176(1) is made out (subject to a defence based on the contract-holder's human rights, and to the application of section 213, on retaliatory evictions).

Section 177 - Restrictions on section 176

371. A landlord may not make a possession claim under section 176 before the date specified in the notice given under section 172, or after two months have elapsed from that date. This, therefore, provides for a two-month period in which the landlord is able to make a possession claim.

Section 178 – Termination of contract on landlord's notice

372. Where the contract-holder gives up possession of the dwelling on or before the date specified in the section 172 notice, the contract ends on the specified date. Where the contract-holder fails to give up possession on or before the date specified in the notice, the contract ends either on the date that the contract-holder gives up possession or in accordance with a possession order (see section 202).

373. However, if the landlord withdraws the possession notice before the contract ends, and the contract-holder does not object to this in writing within a reasonable period, the notice will cease to have effect (under subsection (3)).

Section 179 - Serious rent arrears

374. Where the contract-holder has fallen into “serious rent arrears” the landlord may make a possession claim to the court on this ground. “Serious rent arrears” is defined in subsection (2); for example, at least two months’ unpaid rent in the case of monthly rental periods or eight weeks’ unpaid rent where rent is payable weekly.
375. Subject to any available defence based on the contract-holder’s human rights, the court must make a possession order if it is satisfied the contract-holder was in serious rent arrears at the time the possession notice was given and also when the possession claim is heard by the court (see section 212).

Section 180 - Restrictions on section 179

376. The landlord must give the contract-holder a possession notice stating the ground of serious rent arrears before making a possession claim on the ground in section 179. The landlord may make a possession claim 14 days after giving the notice but any claim must be made within six months from the date the landlord gave the notice. The landlord under an introductory standard contract or a prohibited conduct standard contract may not make the claim before the end of the period of one month starting with the day on which the notice was given.

Section 181 - Relevance of events under fixed term contract

377. Where the contract-holder remains in occupation following the expiry of a fixed term standard contract, and a periodic standard contract has arisen under section 182(2), the landlord may make a possession claim following the expiry of the fixed term based on a notice given during the fixed term. Such a notice could be either a possession notice or a notice given under section 183 - landlord’s notice in connection with end of fixed term.
378. The same restrictions regarding a breach of information requirements, a breach of deposit rules and time limitations set out in sections 174, 175 and 177 apply to notices and claims under section 183.
379. In giving a possession notice the landlord may rely on events that occurred during the fixed term period.

CHAPTER 6 - FIXED TERM STANDARD CONTRACTS: END OF FIXED TERM

Section 182 – End of fixed term

380. A contract made for a fixed term agreed between landlord and contract-holder ends at the expiry of that term. Where the contract-holder remains in occupation following the end of the fixed term, a new periodic standard contract will automatically be created.

381. The occupation date for the new contract immediately follows the end of the fixed term and the rental periods remain as they were. The fundamental and supplementary terms of the new contract will be those applying to periodic standard contracts. The terms of the preceding contract will otherwise continue to apply.
382. Instead of a new periodic standard contract arising automatically in the way described above, a landlord and contract-holder may agree a new contract in the normal way, with an occupation date immediately following the end of the fixed term.
383. If, on or before the new contract comes into effect, the contract-holder does something which would otherwise cause the new contract to end, that act will be of no effect.

CHAPTER 7 - TERMINATION OF FIXED TERM STANDARD CONTRACTS

Section 183 – Landlord’s notice in connection with end of fixed term

384. A landlord may, before or on the last day of the fixed term, give notice that the contract-holder must give up possession on a date specified in the notice. The specified date must be after the last day of the fixed term and not be less than two months after the date on which the notice is given. This section also provides for a landlord to make a possession claim on the ground of having served the notice in connection with the end of the fixed term. If the court is satisfied the requirements of the ground are met, under section 211 it must make a possession order, subject to any available defence based on the contract-holder’s human rights. Therefore, the earliest a landlord is able to make a possession claim is the day after the fixed term period ends, providing the notice was given to the contract-holder at least two months previously.

Section 184 - Serious rent arrears

385. Where the contract-holder has fallen into “serious rent arrears” the landlord may make a possession claim to the court stating this ground. “Serious rent arrears” is defined in subsection (2); for example, at least two months’ unpaid rent in the case of monthly rental periods or eight weeks’ unpaid rent where rent is payable weekly.
386. Subject to any available defence based on the contract-holder’s human rights, the court must make a possession order if it is satisfied the contract-holder was in serious rent arrears at the time the possession notice was given and also when the possession claim is heard by the court (see section 212).

Section 185 - Restrictions on section 184

387. The landlord must give the contract-holder a possession notice stating the ground of serious rent arrears before making a possession claim on the ground in section 184. The landlord may make a possession claim 14 days after giving the notice but any claim must be made within six months from the date the landlord gave the notice.

Sections 186 and 187 – Contract-holder’s break clause and minimum notice period

388. A fixed term standard contract may contain a contract-holders break clause. Such a break clause enables the contract-holder to end the contract before the end of the fixed term. Where such a break clause is included, the contract-holder wishing to rely on it to leave the contract must provide notice to the landlord specifying the end date. Section 187 requires that the date within the notice may not be less than four weeks after the date the notice is given.

Section 188 – Recovery of possession

389. This section enables a landlord to recover possession of the dwelling in the event of a contract-holder, having given notice to the landlord under section 186, failing to give up possession on the date specified in that notice.
390. Under section 211, the court must make an order for possession if it is satisfied that the ground in section 188(1) is made out, subject to any available defence based on the contract-holder’s human rights.

Section 189 – Restriction on section 188

391. This section sets out restrictions on the exercise of the landlord’s power to obtain possession on the ground in section 188. If the landlord seeks possession on this ground, the landlord must give the contract-holder a possession notice specifying the ground within two months of the date the contract-holder was due to give up possession. The landlord may make a possession claim from the day the possession notice is given to the contract-holder, but not more than six months after that day.

Section 190 – Termination of contract under contract-holder’s break clause

392. This section provides that, where the contract-holder gives up possession of the dwelling on or before the date specified in the notice given under section 186, the contract will continue to run until that date. Where the contract-holder gives up possession after the date specified in the notice, the contract ends on the date the contract-holder gives up possession. Alternatively, if a possession order is made on the ground in section 188, the contract will end in accordance with section 202 (effect of possession order).
393. If the contract-holder, before the end of the notice period, withdraws the notice given under section 186, and the landlord does not object to this, in writing, within a reasonable period, the notice ceases to have effect (under section 190(3)).

Sections 191 and 192 – Landlord’s break clause and minimum notice period

394. A fixed term standard contract may contain a landlord’s break clause. This break clause enables the landlord to end the contract before the end of the fixed term, providing they provide notice to the contract-holder. Section 192 is a fundamental provision in relation to fixed term standard contracts that have a landlord’s break clause. It provides that the date for possession specified in the notice may not be less than two months after the date on which the notice is given.

Section 193 - Restrictions on use of landlord's break clause: breach of information requirements

395. Where a landlord has not provided the contract-holder with a written statement of the contract, as required by section 31(1), the landlord may not give notice under section 191. Furthermore, the landlord is prevented from issuing a notice under section 191 for a period of six months, starting with the day the written statement is provided.
396. Where a landlord has failed to provide contact details to the contract-holder (as required under section 39), the landlord is prevented from issuing a notice under section 191 until such details are provided.

Section 194 - Restrictions on use of landlord's break clause: security and deposit requirements

397. A possession notice cannot be given under section 191 where a landlord has not returned a security given in the form not permitted under section 43 (that is not in the form of money or a guarantee).
398. A landlord is also prevented from issuing a notice under section 191 (subject to the exception below) where: a deposit has not been protected under an authorised scheme; a deposit has been paid but the landlord has not met the initial requirements of the deposit scheme; or a deposit has been paid but the required information has not been provided to the contract-holder.
399. The restrictions in the paragraph above do not apply where a deposit has been returned or an application (under paragraph 2 of Schedule 5) has been made to the court and been concluded.

Section 195 – Recovery of possession

400. Where a landlord has given a notice under a landlord's break clause, the landlord may make a claim for possession to the court. Section 211 provides that the court must make an order for possession if satisfied that the ground in section 176(1) is made out (subject to a defence based on the contract-holder's human rights, and to the application of section 213, on retaliatory evictions).

Section 196 - Restrictions on section 195

401. A landlord may not make a possession claim under section 195 before the date specified in the notice given under the landlord's break clause, or after two months have elapsed from that date. This, therefore, provides for a two-month period in which the landlord is able to make a possession claim.

Section 197 – Termination of contract under landlord's break clause

402. Where the contract-holder gives up possession of the dwelling on or before the date specified in notice, the contract ends on the specified date. Where the contract-holder fails to give up possession on or before the date specified in the notice, the contract ends either on the date that the contract-holder gives up possession or in accordance with the effect of a possession order (see section 202).

403. However, if the landlord withdraws the possession notice before the contract ends, and the contract-holder does not object to this in writing within a reasonable period, the notice will cease to have effect (under subsection (3)).

**CHAPTER 8 - REVIEW BY LANDLORD OF DECISION TO GIVE NOTICE REQUIRING POSSESSION
(THIS CHAPTER APPLIES ONLY TO INTRODUCTORY STANDARD CONTRACTS AND PROHIBITED CONDUCT STANDARD CONTRACTS)**

404. Sections 199 and 200 apply to notices requiring possession relating to introductory standard contracts (section 16) and prohibited conduct standard contracts (section 116), which are given under section 172 or section 179. Where a notice is given under either of those sections and a possession order is sought, the court must make the order if it is satisfied that the ground is made out (subject to any defence the contract-holder may have based on their human rights).

Section 198 – Review of decision to terminate introductory standard contracts and prohibited contracts

405. This section confers a right on a contract-holder, who has received a notice requiring possession under section 173 (landlord's notice) or a possession notice specifying the serious rent arrears ground (see section 179), to request a review by the landlord of the decision to issue the notice. A request for review must be made to the landlord within 14 days from the date the contract-holder receives the possession notice (unless the landlord allows an additional time).

Section 199 - Landlord's review of decision to give notice

406. A landlord, having received a request to carry out a review which was made in compliance with section 198, must carry out a review of the decision to issue a notice. The landlord must notify the contract-holder of the outcome of the review before the date from which the landlord may make a possession claim related to the notice. If the review confirms the decision to seek possession, the reasons for the confirmation must be given.
407. Under subsections (5) and (6) the Welsh Ministers may make regulations concerning the procedure relating to reviews, and may make provisions addressing appropriate persons to carry out the review and circumstances under which a contract-holder is entitled to an oral hearing.

**CHAPTER 9 - POSSESSION CLAIMS: POWERS OF COURT
(THIS CHAPTER APPLIES TO ALL OCCUPATION CONTRACTS)**

Section 200 – Possession claims

408. Section 200 provides that the court may not consider a possession claim made by a landlord unless the landlord has complied with the requirements specified in subsection (1), to the extent that they apply to the claim in question. Subsection (2) provides that the court may dispense with these requirements if it considers it is reasonable to do so.

409. Under subsection (3), subsection (1) does not apply with regard to an application by the landlord for an 'extended possession order' against a sub-holder under section 65(2).

Section 201 – Possession orders

410. This section sets out the sections of the Act containing the grounds on which the court may make a possession order. Subsections (2) restricts the court to making a possession order only in relation to a ground specified in the possession notice, but subsection (3) provides for the notice to be amended before the court makes an order.

Section 202 – Effect of possession order

411. This section deals with the effect of a possession order. Where a court makes a possession order, the contract ends on the date specified in the order, even if the contract-holder gives up possession beforehand. If the contract-holder continues to occupy the dwelling after the date set in the order, the contract ends when the contract-holder gives up possession or when the order is executed. In cases where an order requires that some but not all joint contract-holder(s) must be offered a new contract in respect of the relevant dwelling, the original contract ends immediately prior to the new one commencing.

Section 203 – Participation in proceedings

412. A person with "home rights" (as defined by section 30(2) of the Family Law Act 1996; for example, a person living in their partner's property during a divorce or separation) who is occupying a dwelling but who is not the contract-holder has a right to participate in possession proceedings relating to that dwelling, as well as a right to seek an adjournment, postponement, stay or suspension of those proceedings.

Section 204 – Misrepresentation or concealment of facts used to obtain a possession order

413. The court may order a landlord to pay compensation to a contract-holder if it is satisfied that a possession order made by the court was on the basis of misrepresentation or concealment of material facts by the landlord.

CHAPTER 10 - POSSESSION CLAIMS: POWERS OF COURT IN RELATION TO DISCRETIONARY GROUNDS (THIS CHAPTER APPLIES TO ALL OCCUPATION CONTRACTS)

Section 205 – Breach of a contract ground

414. Where a landlord makes a possession claim on the ground of breach of contract (see section 156) a court may only make a possession order if it considers it reasonable to do so. A court is still able to make a possession order even if the contract-holder was no longer in breach before or at the time the landlord made the possession claim.
415. Schedule 9 sets out the circumstances that are relevant for the court to consider in relation to making a possession order on a ground which gives the court discretion as to whether to make the order (see also section 206 (possession claim on estate management grounds). Schedule 9 also applies in

relation to a decision under section 207 to adjourn proceedings or postpone the giving up of possession under a possession order.

Schedule 9 - Possession orders on discretionary grounds etc: reasonableness

416. This Schedule makes provision as to what the court must consider when determining whether it is reasonable to make a possession order in relation to a breach of contract (section 205) or an estate management ground (section 206). It also applies in relation to a decision to adjourn proceedings on a possession claim or postpone the giving up of possession (section 207).
417. Paragraphs 4 to 13 of this Schedule set out the circumstances to which a court is required to have regard in making an order or decision, if the circumstance in question is relevant. In summary, these are:
- Circumstances as regards the contract-holder;
 - Circumstances as regards the landlord;
 - Circumstances as regards other persons;
 - Whether the landlord has offered or undertakes to offer a new occupation contract;
 - Circumstances which are relevant to a possession claim on ground of breach of contract;
 - Circumstances which are relevant to a possession claim concerning section 55 (prohibited conduct);
 - Circumstances which are relevant to a possession claim on estate management Ground G of the estate management grounds (accommodation not required by reserve successor); and
 - Circumstances which are relevant to a possession claim on estate management Ground H (departing joint contract-holder).
418. Paragraph 14 sets out a circumstance to which a court must not have regard (subject to any other duty to have regard to that circumstance). It is the likelihood of assistance being provided to the contract-holder in relation to homelessness.

Section 206 – Estate management grounds

419. Where a landlord makes a possession claim under an estate management ground (see section 159), the court may only make an order if it considers it reasonable to do so (see Schedule 9 above) and is satisfied that the landlord will make suitable alternative accommodation available to the contract-holder (see Schedule 10).
420. Where a landlord makes a possession claim on Ground B (redevelopment) and the redevelopment scheme is subject to conditions, the court must be satisfied that such conditions have been, or will be, met. Any costs awarded

for reasonable expenses to the contract-holder under section 159(4) can be determined by the court and recovered from the landlord as a civil debt.

421. This section also (along with section 218), introduces Schedule 10 which sets out the matters to be considered in determining whether alternative accommodation is suitable.

SCHEDULE 10 - SUITABLE ALTERNATIVE ACCOMMODATION

422. Section 206 provides that possession on one of the estate management grounds may not be granted unless, amongst other things, the court is satisfied that suitable alternative accommodation will be made available to the contract-holder.
423. This Schedule also applies in relation to section 218, which provides the court with a power to order a landlord to provide suitable alternative accommodation, in the event of a contract-holder seeking remedies from the court, following the landlord having obtained possession of a dwelling under the abandonment provisions in section 216.
424. Schedule 10 sets out matters to be taken into account in determining whether such accommodation will be available.

Section 207 – Powers to adjourn proceedings and postpone giving up of possession

425. The court may adjourn possession proceedings made on the ground in section 156 (breach of contract) or on an estate management ground (see section 159 for such period or periods as it considers reasonable. Where the court makes a possession order under section 205 (breach of contract) or section 206 (estate management grounds), it may suspend the giving up of possession for such period or periods as it thinks fit.
426. Where a court has adjourned proceedings or postponed a possession order, it must impose conditions on the contract-holder in relation to any rent arrears and the continued payment of rent until the proceedings are concluded, unless it considers that to do so would be unreasonable or cause exceptional hardship to the contract-holder.
427. The court may impose any other conditions that it thinks appropriate and can discharge the order for possession against the contract-holder if it considers that the required conditions have been met. The circumstances set out in Schedule 9 also apply in relation to a decision to adjourn or postpone proceedings.

CHAPTER 11 - POSSESSION CLAIMS: POWERS OF COURT IN RELATION TO ABSOLUTE GROUND

(THIS CHAPTER APPLIES ONLY TO SECURE CONTRACTS)

Section 208 – Contract-holder's notice ground

428. Where a contract-holder under a secure contract has given notice to the landlord under section 162 and subsequently the landlord has made a possession claim in reliance on the ground in section 164 (where the contract-

holder has failed to give up possession after he or she gave notice to end the contract), the court must make a possession order, subject to any defence based on the contract-holder's human rights.

Section 209 – Review in relation to contract-holder's ground

429. Where a landlord who is a community landlord makes a possession claim under section 164 (or where the landlord's decision to make such a possession claim is subject to judicial review), a contract-holder may, during possession proceedings in the county court, apply for a review of the landlord's decision to seek possession. The court may confirm or quash the landlord's decision.

Section 210 – Powers to postpone giving up of possession

430. Where the court makes an order for possession under section 208, it may not postpone the giving up of possession for more than 14 days after the making of the possession order, except in cases where exceptional hardship would otherwise be caused to the contract-holder. In such cases, possession may be postponed for up to six weeks.

CHAPTER 12 - POSSESSION CLAIMS: ABSOLUTE GROUNDS STANDARD CONTRACTS

Section 211 – Notice grounds

431. Where a contract-holder has given notice to the landlord under section 169 or 188 (which concern contract-holder's notice and apply to periodic and fixed term standard contracts) and subsequently the landlord has made a possession claim (where the contract-holder has failed to leave) the court must make a possession order, subject to any available defence based on the contract-holder's human rights.
432. The court must also, subject to any available defence based on the contract-holder's human rights, make an order for possession where the landlord has made a possession claim under section 176 or 195 (which concern landlord's notice and apply to periodic and fixed term standard contracts), unless the court is satisfied the possession claim was made in order to avoid compliance with the landlord's repairing or fitness for human habitation obligations (see section 213), and subject to any available defence based on the contract-holder's human rights. In the case of certain landlords, the contract-holder may be able to seek a review of the landlord's decision under section 214.

Section 212 – Serious rent arrears grounds

433. A court must make a possession order against a contract-holder who has a standard contract where it is satisfied that the serious rent arrears ground (sections 179 or 184) has been met. That is, the contract-holder being in serious arrears on the date the landlord made the claim and the date of the possession claim being heard by the court. This is subject to any available defence based on the contract-holder's human rights. In the case of certain landlords, the contract-holder may be able to seek a review of the landlord's decision under section 214.

Section 213 – Retaliatory possession claims

434. Where a landlord makes a possession claim under section 176 or 195 (landlord’s notice), the court may choose not to make a possession order if it considers it is a retaliatory eviction (issued by the landlord to avoid their repairing or fitness for human habitation obligations under the occupation contract).

Section 214 – Review in relation to absolute grounds

435. This section applies to a landlord who is a community landlord or whose decision to make a possession claim is subject to judicial review. A contract-holder may, during possession proceedings in the county court on the grounds outlined in section 214(2), apply to the court for a review of the landlord’s decision to seek possession. The court hearing the application may confirm or quash the landlord’s decision.

Section 215 – Powers to postpone giving up of possession

436. In relation to a possession claim under section 211 or 212, this section prevents a court from delaying possession for any more than 14 days after making the possession order. This is unless the court is satisfied that exceptional hardship would be caused to the contract-holder, in which case possession may be delayed for up to six weeks.

CHAPTER 13 – ABANDONMENT ALL OCCUPATION CONTRACTS

Sections 216 and 220 - Possession of abandoned dwellings and Rights of entry

437. Where a landlord has reason to believe that a contract-holder has abandoned the dwelling they may recover the dwelling without the need for a court order. In such circumstances the landlord must give the contract-holder notice that they believe the contract-holder has abandoned the dwelling. The notice must inform the contract-holder that he or she must contact the landlord in writing before the end of the “warning period” to confirm the dwelling is not abandoned, and that if he or she does not do so, the landlord will end the contract. The warning period is four weeks.
438. The landlord must, during the warning period, carry out such inquiries as are necessary to confirm whether the contract-holder has indeed abandoned the dwelling. If, at the end of the four week period, the landlord is satisfied that the contract-holder has abandoned the dwelling, the landlord may end the contract by means of giving the contract-holder a further notice, copies of which must be provided to any lodger or sub-holder who lives in the dwelling. The landlord may then recover possession of the dwelling.
439. Under section 220, a landlord is entitled to enter a dwelling at any time where they believe it has been abandoned to make it and its contents secure, using reasonable force if necessary.

Section 217 – Disposal of property

440. The Welsh Ministers may make regulations setting out arrangements for what should be done to store any items found in an abandoned property and return them to their owner (apart from those which belong to the landlord).

Section 218 – Contract-holder’s remedies

441. Within six months of the notice ending the contract having been given, the contract-holder may apply to the court to have the landlord’s decision overturned on the grounds set out in subsection (2); for example the landlord failed to make appropriate inquiries during the warning period.
442. A court can overrule the landlord’s termination of the contract if it is satisfied that one of the grounds in subsection (2) is met. The court may reinstate the contract in relation to the dwelling, require the landlord to provide suitable alternative accommodation or make any other order it thinks fit.

Section 219 – Power to vary periods of time relating to abandonment

443. The Welsh Ministers may make regulations vary the warning period under section 216(8) or the period allowed for the contract-holder to contest the taking of possession under section 218(1).

CHAPTER 14 - JOINT CONTRACT-HOLDERS: EXCLUSION AND TERMINATION

ALL OCCUPATION CONTRACTS

Section 221 – Non-occupation: exclusion by landlord

444. Where the contract requires a joint contract-holder to occupy the dwelling as his or her only or principal home, and the landlord has reason to believe a joint contract-holder is not occupying the dwelling and does not intend to, the landlord can take action to exclude that joint contract-holder from the contract. To do so, the landlord must give the relevant joint contract-holder notice that they do not believe he or she is living in the property, or intends to live there in future, and that the landlord will therefore be terminating the joint contract-holder’s rights and obligations under the contract. This is unless the joint contract-holder contacts the landlord in writing within four weeks of the day on which notice was given to confirm that they are occupying, or do intend to occupy, the property.
445. During the four-week warning period the landlord must make inquiries to be satisfied the joint contract-holder is occupying the property or intends to. If, at the end of the warning period, the landlord is satisfied that the joint contract-holder is not living in the dwelling, or does not intend to, the landlord may end the contract-holder’s rights and obligations under the contract by giving a further notice to the joint contract-holder, copies of which must be provided to the other joint contract-holder(s). The joint contract-holder’s rights and obligations under the contract end eight weeks after this second notice is given.

Section 222 - Remedies for exclusion

446. During the eight week period before the joint contract-holder’s rights and obligations under the contract are ended under section 221, the joint contract-

holder may apply to the court to have the landlord's decision overturned on the grounds in subsection (2); for example, the joint contract-holder had good reasons for not responding to the notice.

447. If the court is satisfied that one of the grounds in subsection (2) is met, it can declare the notice given under section 221(6) is of no effect and that the joint contract-holder continues to be a party to the contract. The court may also make any further order it thinks fit.

Section 223 – Non-occupation: exclusion by joint contract-holder

448. Under this section, one joint contract-holder may act to end the rights and obligations of another joint contract-holder. This only applies where the contract requires occupation of the dwelling as the only or principal home of the joint contract-holder in question.
449. A joint contract-holder ("C") may seek to end the rights and obligations of another joint contract-holder ("J") where C believes that J is not living in the dwelling and does not intend to do so in future. In such circumstances, C must give J notice that they do not believe that J is living in the dwelling, or intends to live there, and that J's rights and obligations under the contract may be ended unless they contact C in writing within four weeks to confirm that they are living, or intend to live, in the dwelling.
450. Copies of this notice must be provided by C to the landlord and any other joint contract-holders. During this four week period C must make inquiries to be satisfied as to whether J is occupying the dwelling or intends to. If, at the end of the four-week period, C is satisfied that J is not living in the dwelling, or does not intend to, C may apply to the court to have J's rights and obligations under the contract ended.
451. Where the court is satisfied that J does not live, and does not intend to live, in the dwelling, it may make an order ending J's rights and obligations under the contract on a specified date (unless J's absence can be attributed to other joint contract-holders breaching the prohibited conduct term of the contract (see section 55)).

Section 224 – Remedies for exclusion

452. J, within six months of the court order being made under section 223, may apply to the court to have its order rescinded on a ground in subsection (3). The court may reinstate J as a party to the contract and make any other order it thinks fit.

Section 225 - Power to vary periods of time relating to exclusion of joint contract-holder

453. The Welsh Ministers may by regulations amend the time periods under sections 221(4), 222(1), 223(10) and 224(2).

Section 226 – Prohibited conduct: exclusion by landlord

454. A landlord may apply to the court for an order to end the rights and obligations under a contract of a joint contract-holder who the landlord

believes is in breach of section 55 (anti-social behaviour and other prohibited conduct). Before making the application, the landlord must give notice to the joint contract-holder stating the details of the breach and that the landlord intends to apply to the court to have his or her rights and obligations under the contract ended. The landlord must also give a notice to the other joint contract-holders informing them that the landlord believes that a breach of section 55 has occurred, though not the details of it, and of the intention to apply for a court order. The application must be made within six months of the notice being given. If a court makes the order, the joint contract-holder's rights and obligations end on the date set out in that order.

Section 227 – Termination of occupation contract with joint contract-holders

455. A contract with joint contract-holders can only be ended by the joint contract-holders acting together.

CHAPTER 15 - FORFEITURE AND NOTICES TO QUIT NOT AVAILABLE

Section 228 – Forfeiture and notices to quit

456. This section specifies elements of current law that will not apply to occupation contracts, whether or not they feature as terms of a contract.
457. Any provision in an occupation contract allowing the landlord to issue a notice to quit, a right of re-entry or forfeiture (a landlord's unilateral right to bring a tenancy to an end in the event of a breach by the tenant) has no effect.

PART 10 – MISCELLANEOUS

CHAPTER 1 - FURTHER PROVISIONS RELATING TO OCCUPATION CONTRACTS

Section 229 – Effect of reaching 16

458. Where a person below the age of 16 who lives in a dwelling under a tenancy or license (and was therefore excluded under Schedule 2 from being a contract-holder under an occupation contract) reaches the age of 16, consideration has to be given as to whether the tenancy or license is an occupation contract and, if so, whether it is a standard or secure contract and who the contract-holder(s) will be. This section sets out how the answers to these questions are to be determined.

Section 230 – Contract-holders aged 16 and 17

459. The Bill applies to a contract-holder aged 16 or 17 as if he or she were 18. A contract-holder may not repudiate a contract on the ground that it was made before they were 18 years of age; nor can a court treat a contract as unenforceable on that ground. This section also provides that the limitations under the Law of Property Act 1925 and the Trusts of Land and Appointment of Trustees Act 1996, with regard to the holding of a legal estate by those under 18, do not apply in relation to occupation contracts under the Bill.

Sections 231 and 232 – Consultation arrangements and statements of arrangements

460. Community landlords must have arrangements in place for consulting with contract-holders before taking any decisions on relevant proposals on

housing management matters. Such proposals are defined in section 231(4), and section 231(5) stipulates that the requirement to consult does not relate to changes to rent or service charges payable.

461. Each community landlord must publish a statement on how it will meet the requirement to consult, together with a summary, both of which must be available to contract-holders and to members of the public. Community landlords other than local housing authorities must send copies of the statement to the Welsh Ministers and the relevant local housing authority.

Sections 233 and 234 – Form of, and giving, notices, statements and other documents

462. Any notices or other documents given or made under the Bill must be in writing and the Welsh Ministers can prescribe the form of notices in regulations. Notices in electronic form are acceptable as long as they contain the electronic signatures of any required parties (or an agent authorised by the relevant party), but this is subject to the conditions in section 234(4), set out below.
463. Where a notice or any other document is required to be given to a person under the Bill, it is considered as given if it is posted to, or left at, that person's last known address or place of business, or any other place that the person has specified as a place where they may be given documents. In the case of a contract-holder, the dwelling that the contract-holder occupies is also an appropriate address.
464. A notice or other document may also be given electronically if the recipient has agreed to receive it in this manner, it is legible, and the text it contains can be used for subsequent reference if required.

CHAPTER 2 - TRESPASSERS: IMPLIED TENANCIES AND LICENCES

Section 235 – Implied tenancies and licences

465. Where a landlord accepts payments from a person knowing they are a trespasser, or where they ought to have known they are a trespasser, and does not take any action to evict that person within two months of accepted the first payment, a periodic contract is created between the landlord and the person. This entitles the trespasser to occupy the dwelling as his or her home from then on. The amount of rent and the rental periods of the contract are to be determined based on the amount and frequency of payments made by the trespasser, and any other relevant circumstances.

CHAPTER 3 - TENANCIES AND LICENCES EXISTING BEFORE COMMENCEMENT OF THIS CHAPTER

Sections 236, 237 and 238 Pre existing licences and tenancies

466. Section 236 provides that, on the day that section is brought into force, the following types of tenancies and licenses will be abolished:
- restricted contracts
 - protected shorthold tenancies;

- secure tenancies;
- assured tenancies;
- introductory tenancies; and
- demoted tenancies.

467. No existing tenancies or licenses will be ended by this section. They will be converted into occupation contracts in accordance with section 237.
468. The existing terms of converted contracts will continue to have effect providing they do not conflict with the fundamental provisions of the Bill which apply to it. Supplementary terms which apply to the occupation contract will be incorporated unless they conflict with the existing terms of the contract. If a contract has been agreed between a landlord and tenant or licensee before the day that the relevant provisions of the Bill come into force, but the occupation date falls after that date, the Bill will apply to the tenancy or licence as if it was made on the appointed day.
469. Schedule 11 makes further provision about converted contracts.

Section 239 - Interpretation of Chapter

470. This section sets out definitions of terms used in the Chapter.

PART 11 - FINAL PROVISIONS

Sections 240 to 255

471. Section 240 sets out the meaning of “local authority” and gives the definitions of other authorities referenced in the Bill.
472. Section 241 sets out the meanings of “landlord”, “lodger” and “permitted occupier”
473. Section 242 defines “occupation date” as the date on which a contract-holder may begin occupying the dwelling subject to the contract.
474. Section 243 defines “dwelling”.
475. Section 244 defines “variation”, in relation to the variation of terms of occupation contracts.
476. Section 245 defines “the court”.
477. Section 246 defines “lease”, “tenancy” and related expressions.
478. Section 247 sets out when a person is to be treated as a member of another’s family.
479. Section 248 defines “family property order”.

- 480. Section 249 provides definitions of other minor terms used in the Bill.
- 481. Section 250 sets out the various terms used and defined in the Bill in alphabetical order, together with the section in which they are defined.
- 482. Section 251 provides that the Bill applies to the Crown.
- 483. Section 252 provides a power to make supplemental, consequential and transitional provision in order to give effect to the Bill.
- 484. Section 253 makes provision about the making of regulations under the Bill.
- 485. Section 254 provides for the commencement of the Bill.
- 486. Section 255 gives the short title of the Bill.
- 487. Notes on the Schedules to the Bill not already dealt with are set out below.

Schedule 11

- 488. Schedule 11 sets out provision which modifies the Bill insofar as it applies to tenancies and licences which convert to occupation contracts by virtue of section 237.

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