

SL(6)019 – The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2021

Background and Purpose

Section 82 of the Coronavirus Act 2020 ensures that re-entry or forfeiture for non-payment of rent may not be enforced in relation to relevant business tenancies during the “relevant period”.

Section 82(12) of the Act defines the “relevant period” as beginning on 26 March 2020, and ending on 30 June 2020, or such later date as may be specified in regulations made by the relevant national authority. The Welsh Ministers are the relevant national authority in relation to Wales.

The Welsh Ministers have extended the relevant period as follows:

- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2020 (S.I. 2020/606 (W. 140)) extended the “relevant period” until 30 September 2020;
- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 2) Regulations 2020 (S.I. 2020/960 (W. 214)) further extended the “relevant period” until 31 December 2020;
- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) (No. 3) Regulations 2020 (S.I. 2020/1456 (W. 314)) further extended the “relevant period” until 31 March 2021; and
- The Business Tenancies (Extension of Protection from Forfeiture etc.) (Wales) (Coronavirus) Regulations 2021 (S.I. 2021/253 (W. 66)) further extended the “relevant period” until 30 June 2021.

These Regulations, further extend the moratorium provided by section 82 of the Act until 30 September 2021.

Procedure

Made Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.



Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Vaughan Gething MS, Minister for Economy, in a letter to the Llywydd dated 28 June 2021.

In particular, we note what the letter says regarding the extension of the relevant period:

“There is an urgent need to ensure that the relevant period is extended beyond the 30 June. The number of businesses under immediate threat of eviction from their premises must be kept low, in order to continue to contribute to the range of measures in place that respond to the continuing effects of the pandemic. Consequently, these Regulations come into force on 30 June 2021 in order to ensure that there is no gap in the protection given to tenants. This means that they do not follow the convention that not less than 21 days should elapse between the laying of the Regulations and their coming into force. The decision to extend the relevant period has been taken in response to a situation that is still rapidly evolving, and in the light of continuing uncertainties surrounding the impact of new variants of the virus. Taking this decision has been essential to ensuring appropriate alignment of the measures taken to combat the effects of the pandemic.”

Welsh Government response

A Welsh Government response is not required.

Committee Consideration

The Committee considered the instrument at its meeting on 12 July 2021 and reports to the Senedd in line with the reporting point above.

