

Explanatory Memorandum to The Renting Homes (Miscellaneous Amendments) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Climate Change and Rural Affairs Group of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Renting Homes (Miscellaneous Amendments) (Wales) Regulations 2023.

Julie James MS
Minister for Climate Change
10 November 2023

PART 1

Description

1. The Renting Homes (Miscellaneous Amendments) (Wales) Regulations 2023 (“the 2023 Regulations”) make amendments to the following regulations:
 - The Renting Homes (Explanatory Information for Written Statements of Occupation Contracts) (Wales) Regulations 2022.
 - The Renting Homes (Model Written Statements of Contract) (Wales) Regulations 2022.
 - The Renting Homes (Prescribed Forms) (Wales) Regulations 2022

2. The 2023 Regulations:
 - clarify certain aspects of explanatory information in written statements and model written statements.
 - remove outdated information within prescribed forms and providing greater clarity within these forms.

Matters of special interest to the Legislation, Justice and Constitution Committee

None

Legislative background

3. The following sections of the Renting Homes (Wales) Act 2016 enable the Welsh Ministers to make the provisions included in the draft Renting Homes (Miscellaneous Amendments) (Wales) Regulations.
 - Section 29(1) enable the Welsh Ministers to prescribe model written statements of contract.
 - Section 32(4) enable the Welsh Ministers to prescribe the explanatory information to be included in written statements.
 - Section 236(1) enable the Welsh Ministers to prescribe the form of notice and other documents.
 - Section 256(1) provides that the power to make Regulations includes the power to amend them.

The Regulations are subject to the negative procedure.

Purpose and intended effect of the legislation

Regulation 2: The Renting Homes (Explanatory Information for Written Statements of Occupation Contracts) (Wales) Regulations 2022.

4. The Renting Homes (Explanatory Information for Written Statements of Occupation Contracts) (Wales) Regulations 2022 ('the Explanatory Information Regulations'), provide for certain explanatory information to be included in written statements. This includes the requirement for a landlord to provide a written statement of the contract to the contract-holder no later than 14 days from the occupation date. Whilst there is nothing preventing a landlord providing the statement at any point prior to end of the 14-day period date, including before the occupation date, this is not clear from the current wording of the Explanatory Information Regulations.
5. Regulation 2 clarifies this position by amending Regulation 3(f) of the Explanatory Information Regulations, replacing a reference to providing the written statement within 14 days of the occupation date with a reference which clarifies that the written statement can be provided prior to the occupation date but no later than 14 days from the occupation date.
6. Further the Explanatory Information Regulations are also amended to clarify that where a written statement has not been provided in the required timescale, compensation is payable to the contract-holder from the occupation date.
7. Minor textual and punctuation errors in regulation 8 of the Explanatory Information Regulations are also corrected.

Regulation 3: The Renting Homes (Model Written Statements of Contract) (Wales) Regulations 2022.

8. Regulation 3 amends Schedules 1, 2 and 3 to the Renting Homes (Model Written Statements of Contract) (Wales) Regulations 2022 to further clarify when compensation is payable to the contract-holder: In the event of the late provision of the written statement, compensation is payable from the occupation date. These amendments apply to the secure, periodic standard and fixed term standard model written statements.
9. Regulation 3(3)(b) provides for the clarification of terms 47 and 60 of the model written statement for a periodic standard contract.
10. Regulation 3(4)(b) provides for the length of the fixed term to be stated in the Key Matters section of the model written statement for a fixed term standard contract and regulation 3(4)(c) amends the heading of term 39 of that model written statement to reflect it is a fundamental term than can be left out or changed.

Regulation 4: The Renting Homes (Prescribed Forms) (Wales) Regulations 2022

11. Regulation 4 amends the Renting Homes (Prescribed Forms) (Wales) Regulations 2022, specifically the guidance notes for Form RHW17 (landlord's notice of termination: periodic standard contract with two-month minimum notice period (other than introductory standard contract or prohibited conduct standard contract)). This removes information relating to converted contracts in Form RHW17, which is no longer relevant.
12. These amendments do not require Written Statements of Occupation Contracts to be reissued to the contract-holder as there is no requirement for a landlord to use the Model Written Statements. However, landlords may wish to consider how best to bring these changes to the attention of contract-holders as part of their wider communication and engagement activities.

Consultation

13. No formal consultation has been undertaken as the Regulations are technical in nature, and do not make any changes to policy positions set out in the primary legislation.

Regulatory Impact Assessment

13. A regulatory impact assessment has not been prepared for the 2023 Regulations given the amendments are technical in nature and do not alter the policy position set out in the primary legislation. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out regulatory impact assessments for subordinate legislation.