

SL(6)177 – The Renting Homes (Review of Decisions) (Wales) Regulations 2022

Background and Purpose

These [Regulations](#) relate to two types of occupation contract under the Renting Homes (Wales) Act 2016 (the 2016 Act):

- (1) introductory standard contracts, and
- (2) prohibited conduct standard contracts.

An **introductory standard contract** is a specific type of contract that can be used by community landlords, or charities providing a landlord function, as an alternative to a secure contract when letting a dwelling to a contract-holder. This type of contract runs for an initial 12 months and then automatically converts into a secure contract, although the landlord can seek a court order to extend the introductory period to a total of 18 months. Introductory standard contracts allow community landlords and charities to ascertain during the introductory period whether a contract-holder can sustain a secure contract. In instances where the contract-holder has demonstrated they will not be able to sustain a secure contract, for example due to antisocial behaviour, the landlord can seek to terminate by giving notice under section 173 of the 2016 Act. This means an introductory standard contract can be terminated more easily than is possible under a secure contract.

A **prohibited conduct standard contract** is a specific type of contract that can be used as an alternative to terminating a secure contract where the contract-holder has breached the term of their secure contract regarding antisocial behaviour or other prohibited conduct. The landlord can apply to the court for a secure contract to be replaced with a prohibited conduct standard contract, which, if made, provides for a 12-month probationary period during which the landlord can seek to end the contract more easily by issuing a notice under section 173 of the 2016 Act. During the probationary period however, the landlord is required to provide social support to the contract-holder with the aim of preventing any further antisocial behaviour or prohibited conduct. The probationary period can be extended for a further six months if the landlord requests this and the court agrees.

These Regulations prescribe the procedure to be followed by landlords in connection with reviews requested by contract-holders in respect of:

- landlord decisions to terminate introductory standard contracts or prohibited conduct standard contracts;
- landlord decisions to extend introductory periods (of introductory standard contracts); and
- landlord decisions to extend probationary periods (of prohibited conduct standard contracts).



The procedure set out in the Regulations provides, for example, that

- any review must be undertaken by someone other than the person who took the original decision, and if the review is to be undertaken by someone within the same organisation, that person must be senior to the person who made the original decision;
- an oral hearing must take place if requested by the contract-holder to allow the contract-holder to make representations in person, or to be represented by another person;
- an oral hearing may be conducted virtually with the written consent of the contract-holder;
- whether there is an oral hearing or not, the contract-holder may make written representations to the landlord, which the landlord must consider;
- the landlord must give written notice to the contract-holder of a reasonably convenient time, date and location for the hearing.

Procedure

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

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

The 2016 Act says that reviews of certain landlord decisions must be carried out by the landlord. For example, where a contract-holder requests a review of a landlord decision under section 203 of the 2016 Act, the landlord must carry out the review.

Regulation 3(1) of the Regulations says that a review “must be carried out by a person who was not involved in the decision under review”.

Should the Regulations, whether on their face or in a footnote, remind readers that regulation 3(1) must be read subject to the 2016 Act including, for example, section 203, which says that the person carrying out the review must still be the landlord?

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 3(1) says that a review must be carried out by a person who was not “involved” in the decision under review.



We would welcome clarification as to whether it possible that there may be no person available who was not involved in the decision under review. If so, how should a landlord comply with regulation 3(1)?

In many ways, this is also a question as to the meaning of being “involved” in the decision under review.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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

Where the contract-holder or the contract-holder’s representative fails to attend an oral hearing, regulation 9 gives the person carrying out the review two options:

- (a) to proceed with the hearing, or
- (b) to make directions about the review as that person considers appropriate, taking into account relevant circumstances, including any explanation for the absence.

Option (b) requires the person carrying out the review to consider the circumstances, including any explanation provided by the contract-holder or the contract-holder’s representative for the absence.

However, option (a) allows the person carrying out the review to proceed with the hearing in the absence of the contract-holder or the contract-holder’s representative, regardless of the circumstances. Should option (a) be subject to the requirement to take account of the circumstances and any explanation provided for the absence?

Similarly, where a contract-holder requests a postponement of an oral hearing, regulation 10 allows the landlord (not the person carrying out the review) to grant or refuse the request “as the landlord sees fit”. Should the landlord be required to take account of any relevant circumstances when deciding whether to grant or refuse the request for a postponement?

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 28 March 2022 and reports to the Senedd in line with the reporting points above.

