

Explanatory Memorandum to the Renting Homes (Wales) Act 2016 (Amendment of Schedule 12 and Consequential Amendment) Regulations 2022

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 (Wales) Act 2016 (Amendment of Schedule 12 and Consequential Amendment) Regulations 2022. I am satisfied the benefits justify the likely costs.

Julie James
Minister for Climate Change
10 November 2022

PART 1

1. Description

The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12 and Consequential Amendment) Regulations 2022 amend Schedule 12 to the Renting Homes (Wales) Act 2016 ('the 2016 Act') in three ways:

- (i) so that the six-month minimum notice period for a landlords' notice, which is already required in relation to new periodic standard contracts, is extended to converted periodic standard contracts with effect from 1 June 2023.
- (ii) so that community landlords are able to align the rent variation date for new and existing tenancies. This is achieved by, in the year following implementation, allowing such a landlord to vary the rent not less than 51 weeks after the previous increase.
- (iii) to further clarify that pre-existing rent variation clauses in assured tenancies in the private rented sector will continue to apply following conversion to a periodic standard contract where the landlord is a private landlord.

In addition, and as a result of (ii) above, a consequential amendment to the Renting Homes (Wales) Act 2016 (Saving and Transitional Provisions) Regulations 2022 is made.

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

None.

3. Legislative background

The power to make, by regulations, consequential and transitional provision is set out in section 255 to the Renting Homes (Wales) Act 2016 ('the 2016 Act'). The power to amend, by regulations, Schedule 12 to the 2016 Act is set out in paragraph 33 of that Schedule.

Section 256 of the 2016 Act makes provision about the making of regulations under the 2016 Act. Sections 256(3) and (4)(n) of the 2016 Act require that these Regulations are subject to the affirmative procedure.

The SI is being made under the affirmative resolution procedure.

4. Purpose and intended effect of the legislation

The legislation amends Schedule 12 of the 2016 Act. This schedule deals with the conversion of existing tenancies and licences into occupation contracts when the provisions of the 2016 Act come into force. It clarifies which types of current

tenancies and licences will convert, and into which types of occupation contract. It also sets out the requirements that apply to converted contracts, including in relation to the provision of written statements, and how particular terms required under the 2016 Act will or will not be incorporated into converted contracts.

The amendments to Schedule 12 are as follows:

Rent variations

Regulation 3 amends paragraph 13B of Schedule 12

The effect of this amendment is to further clarify that an assured tenancy which converts to a standard contract is not subject to a rent variation under section 123 of the 2016 Act where there are existing rent terms within the contract where the landlord is a private landlord.

Regulation 4 inserts a new sub para (1A) into Paragraph 15 of Schedule 12

The 2016 Act requires that there must be a period of one calendar year between rent variations. However, current law allows a social landlord to increase the rent on the first Monday in April, which is often less than one calendar after the first Monday in April of the previous year.

The effect of this amendment is to allow a community landlord to align the rent variation date for new and existing contracts. It provides for a community landlord under a converted contract, for the first rent variation following implementation only, to be able to vary the rent no less than 51 weeks after the previous increase, instead of the calendar-year restriction that applies to new contracts. Subsequent rent variations under converted contracts will be subject to the calendar-year restriction provided for under sections 104 and 123 of the 2016 Act.

Extending the six-month notice period to existing tenancies

Regulation 5 substitutes the existing paragraph 25A(2)(a) with a new paragraph (a)

The effect of this amendment will be that from 1 June 2023, in relation to periodic standard occupation contracts that were previously periodic assured shorthold tenancies, the minimum period of notice that must be served when a landlord issues a notice under section 173 of the 2016 Act, is increased from two months to six months. This will bring these converted contracts into line with the six-month minimum notice period required under section 173 in relation to new periodic standard contracts that are agreed on or after 1 December. The notice period in the case of latter was previously increased from two months to six months by the Renting Homes (Amendment) (Wales) Act 2021. Section 173 effectively replaces section 21 of the Housing Act 1988, under which a minimum of two months' notice is currently required. Where contract-holders are in breach of their contract, shorter notice periods apply under the 2016 Act, depending on the nature of the breach.

These amendments are proposed for the following reasons.

Without the amendments set out in these Regulations, when the 2016 Act commences on 1 December, and for a long time thereafter, the majority of tenants who rent their homes from a private landlord will continue to be subject to a two-month no-fault notice period (because they will be converted contracts). Based on the number of properties registered with Rent Smart Wales, this could be as many as 200,000 converted contracts subject to a two month-notice period at the point of conversion. The number would reduce gradually over time as existing fixed term contracts become periodic (at which point they will become subject to a six-month notice period) and as occupation contracts come to an end and properties are re-let in accordance with the new requirements provided for under the 2016 Act. Even so, in the case of periodic standard contracts, it is likely that some years after the date of implementation, a significant number of contract-holders will remain subject to two-month notice periods.

This has the practical disadvantage of rendering the Renting Homes scheme less effective in terms of improving security of tenure for assured shorthold tenancies that convert, especially in the short to medium term given that the vast majority of occupation contracts will initially continue to be subject to two-month notices. It also means that for a considerable time to come, homelessness and other support services will continue to incur pressure as a consequence of contract-holders facing no-fault evictions at relatively short notice and with little time to make alternative arrangements of their own.

These disadvantages were understood when the 2016 Act was amended to improve security of tenure for renters in 2021. However, in the period since then there have been a number of developments that have dramatically changed the housing landscape.

Firstly, for more than one and a half years, Covid 19 restrictions passed under the [Coronavirus Act 2020](#) saw minimum notice periods increased to six months (in most instances), providing a greater level of security for renters during the course of the public health emergency. Although those restrictions were lifted in March this year and the pre-pandemic notice periods now apply, the evidence from the period when the restrictions were in place suggests that in the case of no-fault notices, notice periods could be increased without causing significant detriment to landlords by unreasonably restricting their ability to regain possession of their property (providing that shorter notice periods apply where there are grounds for seeking repossession such rent arrears and other breaches of contract).

Secondly, there has been a dramatic increase in demand for temporary accommodation in the wake of the pandemic, placing an unprecedented level of demand on local authority homelessness services, with over 26,400 people supported into temporary accommodation since March 2020. In addition, as a nation of sanctuary, Wales has welcomed those fleeing war in Ukraine, Afghanistan and Syria, and this too has meant an increase in demand for temporary accommodation.

Finally, following the pandemic and the cost-of-living crisis that is now occurring, there has been a significant change in practices in the private rented sector (PRS)

that have substantially increased pressure on renters. These changes, which include increased requirements for rent in advance and higher deposits, make it more difficult for tenants to move at short notice (for example, within the two months given under a section 21 notice), leaving them in an ever more precarious position. For example, the landlord possession claims data from the Ministry of Justice for April to June 2022 indicates that, on an England and Wales basis, there were 18,201 claims for possession, up 160% from the same quarter in 2021. Furthermore, Wales recorded its highest ever number of claims for accelerated possession (248) during this quarter. This is a 35% increase on the same quarter in 2019 – i.e., prior to the pandemic and the associated restrictions on evictions that applied during 2020 and 2021.

Taking into account the experience gained during the period when Covid-related restrictions were in place, the current pressures on temporary accommodation that show no sign of abating, and the increasing pressures on PRS tenants, the Welsh Government believes that there is now a strong case for extending to converted periodic standard contracts, the six-month minimum notice period for a landlord's notice that is already required in relation to new periodic standard contracts under section 173.

The benefits of longer notice periods were set out in original Explanatory Memorandum for the 2021 Act and remain valid. In brief summary, these included increased time to:

- find suitable alternative accommodation within the same community or area where people are current living should they wish to do so. Having only two months to make such arrangements increases the likelihood of having to accept 'any' accommodation, rather than find optimal alternative accommodation. This can also result in households not only having to leave the property, and potentially the community, with their children having to change schools. Such an experience can be a contributing factor to adverse childhood experiences.
- arrange changes to existing care packages where an individual or someone they live with may be in ill health or require care and support and a move to a different local authority or health board area is required.
- make arrangements to try to avoid having to change their child's school, or to be given enough time to make arrangements for the change where it is necessary or desirable.
- save up to pay for the cost of the move and complete all necessary administrative tasks, including making contact with housing support or benefit agencies where appropriate.
- generally plan for the impact of the move on things like employment and family commitments, in a manner more similar to those who are selling their home.

Increasing, in relation to converted periodic standard contracts, the landlord's notice period to six months will not prevent a landlord from regaining their property more promptly where the contract-holder has breached the terms of their contract (e.g. in relation to anti-social behaviour where no notice period applies as the landlord is able to make a possession claim to the court on the same day as the notice is given). Furthermore, there is also no reason why the contract-holder may not leave sooner if they have found suitable alternative accommodation within the six-month notice period.

With the 2016 Act coming into force on 1 December, the Welsh Government has considered carefully whether the proposed changes, if made, should apply from that date. We have a long-standing commitment to provide landlords and others with at least six months' notice of the coming into force of the provisions of the 2016 Act in order that they can make the necessary preparations. As the change set out in the Regulations represents a significant change to the effect of 2016 Act's provisions at a relatively late stage, the Regulations apply this change six months after the 2016 Act comes into force, thus allowing landlords time to make any necessary adjustments to prepare for the change.

Converted fixed term standard contracts are excluded from the scope of the amendments. This is because such contracts already have a defined point at which they are intended to come to an end. With that knowledge, contract-holders could be reasonably expected to make alternative arrangements in advance of the end of the fixed term. Furthermore, landlords will have entered into these contracts in the expectation that they will be able to terminate them at a specific date by giving only two months' notice (for example, landlords in the student letting market) and the inability to do so may cause significant harm to them.

Amendment to Renting Homes (Wales) Act 2016 (Saving and Transitional Provisions) Regulations 2022

Regulation 6 makes an amendment to the Renting Homes (Wales) Act 2016 (Saving and Transitional Provisions) Regulations 2022 that is entirely consequential on the amendment to paragraph 15 of Schedule 12 contained in regulation 4 of these Regulations.

5. Consultation

The amendment to Schedule 12 of the 2016 Act that increase notice periods in relation to converted periodic standard contracts was the subject of a public consultation held between 20 September and 24 October 2022. The consultation was drawn to the attention of a wide audience of key stakeholders including private landlord representative groups, social landlords, tenant representative groups and housing charities. Separate, on-line consultation events were held for landlords and tenants.

1409 responses to the consultation were received from a broad range of stakeholders including examples of all of those listed in the preceding paragraph as well as individual tenants and private landlords. However, the vast majority of those

responding were private landlords (some 85%) followed by smaller number of letting agents (5%) and Tenants (5%).

The responses contained contrasting views on the proposal. Although there was some support for the proposal from landlords and letting agents, the vast majority were opposed. Most of those said that a two-month existing notice period made it easier and quicker to regain possession of a property and many were concerned that increased notice periods would result in longer periods over which rent went unpaid, or anti-social behaviour occurred, etc. Many consultees suggested that the proposal might encourage landlords to leave the private sector and felt that this would exacerbate issues stemming from an undersupply of homes for rent as well as lead to increases in the cost of renting. Some landlords, whilst accepting that longer notice periods should apply to new contracts, thought that it was wrong in principle to alter the terms of existing tenancies.

Of the tenants and tenant representatives who responded, most were in favour of the proposal to increase notice periods, the most common reason being that this provided added security as a result of having more time to find alternative accommodation. However, many of those in favour of the proposal wanted the change implemented when the 2016 Act came into force on 1 December. A few consultees proposed that implementation of the change take place at later date (e.g. one or two years after the 2016 Act comes into force) in order to allow for a longer lead in time.

In its response, the Welsh Government has acknowledged the concerns raised by landlords and others, in particular the perceived negative impact of the proposal on the interests of landlords and the effect that this might have on landlord behaviour. Also noted are the calls from some of those in favour of the proposal that it is implemented on 1 December 2022. However, as with the previously agreed increase to notice periods for new contracts, the Welsh Government considers that the ability of landlords to seek possession of their property at much shorter notice where there are rent arrears or other grounds, mitigates much of the feared impact of the proposal on the interests of landlords. Furthermore, the Welsh Government's response says that on balance, it considers any risk to the interests of landlords is outweighed by the benefits that the proposal has in terms of providing greater security to contract-holders with a converted periodic standard contract, who will have far more time to find alternative accommodation. However, the Welsh Government's response recognises that landlords should be provided with sufficient notice to prepare for the introduction of these changes and in line with previous commitments given in relation to the implementation of the provisions of the 2016 Act, consider that bringing these changes in six months after 1 December is the most appropriate way to proceed.

A summary of the consultation responses is available at: [Renting Homes \(Wales\) Act 2016: improving security of tenure by increasing the period of notice | GOV.WALES](#)

No formal consultation has taken place in relation to the other aspects of these Regulations. Regulation 3 is a clarificatory amendment, as it makes it clear that the landlord under a converted contract to which paragraph 13B of Schedule 12 to the

2016 Act applies must be a private landlord. Regulation 4 is a temporary measure intended to facilitate the smooth transition to the new rent variation requirements set out in the 2016 Act, and regulation 6 is a consequential amendment. As a result, no formal consultation on these aspects was considered necessary or appropriate.

PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)

Regulations 3, 4 and 6 are considered to be either technical amendments, which are required to change the wording of the law, rather than its purpose or effect or factual amendments being made to update subordinate legislation, which do not alter the policy (or its impact) in any significant way or how it is applied in a given situation. As such, no RIA has been produced in relation to these aspect of the Regulations. This is in line with the policy set out in the Welsh Ministers' RIA Code for subordinate legislation.

However, an RIA has been produced, as set out below, in relation to that aspect of the Regulations dealing with the changes to notice periods for converted periodic standard contracts.

6. Options

The overall policy objective is to maximise the number and proportion of contract-holders who will benefit from the enhanced security brought about by increased notice periods under the 2016 Act. Three options for achieving this objective have been considered. These are:

- Option 1 – Do nothing. This would mean that all converted periodic standard contracts would remain subject indefinitely to a two-month no-fault landlord's notice, but that the number of such contracts (and the proportion of occupation contracts as a whole that they represent) would decline over time as they come to an end and properties are re-let in accordance with the new requirements.
- Option 2 – Increase the landlord's notice period in relation to converted periodic standard contracts from two months to six months, applicable from 1 June 2023. (As set out above, the possibility that this change might be implemented along with the rest of the 2016 Act on 1 December has been discounted because of the Welsh Government's long-standing commitment to provide landlords and others with at least six months' notice of the coming into force of 2016 Act's provisions in order that they can make the necessary preparations). **This is the preferred option.**
- Option 3 – Increase to six months notice periods in relation to both a landlord's notice for a converted periodic standard contract and notice given to end a converted fixed term standard contract. However, as set out above, converted fixed term standard contracts already have a defined point at which they are intended to come to an end. With that knowledge, contract-holders could be reasonably expected to make alternative arrangements in advance of the end of term date. Furthermore, landlords will have entered into these contracts in the expectation that they will be able to terminate them at a specific date by giving only two months' notice (for example, landlords in the student letting market) and the inability to do so may cause significant harm to them. **Consequently, this option has not been taken forward for further analysis.** For information, in those instances where a landlord had issued a fixed term assured tenancy as the initial arrangement but is content for the tenant to continue to occupy following the end of the fixed term, provision has already been made for the 'follow-on' periodic standard contract to be subject to a six-month no-fault notice.

7. Costs and benefits

The assessment of costs and benefits is centred on the five-year period 2023-24 to 2027-28. The change to notice periods will take effect on 1 June 2023 and, consequently, it will be during 2023-24 that stakeholders will begin to incur costs. A five-year appraisal period has been chosen, since the costs and benefits of the Regulations will diminish gradually over that period of time (the number of converted periodic standard occupation contracts will naturally decline as those contracts come to an end).

There are around 200,000 tenanted properties in the private rented sector to which a converted standard contract will apply after 1 December. An unknown proportion of these, but likely to be a minority, will be fixed term standard contracts that are unaffected by the changes set out in these regulations. Of that proportion which are converted periodic standard contracts, some will come to an end and be replaced by new fixed term or periodic standard contracts before the changes are brought into force. It is assumed that by that point, between 30% and 70% of standard contracts will be converted periodic standard contracts.

For the purposes of calculating the impact of the changes, three points within that range – 30%, 50% and 70%– have been used as the basis of making estimates of the impact of the regulations. Furthermore, a 25% year on year decrease in the number of converted periodic standard contracts has been assumed over the five years between 2023/24 and 2027/28.

Using these assumptions, the number of converted periodic standard contracts (to the nearest 1000) over the five year is set out in the table below:

	30%	50%	70%
2023/24	60,000	100,000	140,000
2024/25	45,000	75,000	105,000
2025/26	34,000	56,000	79,000
2026/27	25,000	42,000	59,000
2027/28	19,000	31,000	44,000

Introductory standard contracts, which will be issued by community landlords under the 2016 Act, are also periodic standard contracts, and therefore subject to the changes outlined in the Regulations. However, as these contracts are only normally given for one year (before they become secure contracts or are otherwise ended), relatively few converted introductory contracts will exist when the changes are introduced at the six-month stage, and very few at all twelve months after the Act's implementation.

The RIA presents a best estimate of the costs and benefits of the Regulations based on the assumptions underpinning the costs and benefits of longer notices periods that were set out in the RIA that accompanied the 2021 Amendment Act¹.

The Regulations would result in transitional costs for stakeholders, largely around the need to familiarise themselves with the new requirements. However, these additional costs would be very marginal, given the relatively narrow nature of the change and the fact that it will form part of the larger change in the legislation with which stakeholders will already be familiar. The RIA is therefore focused on the on-going costs, especially those incurred by landlords whilst trying to regain possession of their property, the costs and benefits to contract-holders and the cost/cost-saving to local authorities from a reduction in the provision of homelessness services.

Option 1 – Do nothing: all converted periodic standard contracts remain subject indefinitely to a two-month landlord’s notice

Costs to landlords

The principal cost to landlords associated with a two-month notice period arises if the contract-holder fails to pay rent during the notice period.

During 2019, the majority of rents recorded were for 2 and 3-bedroom properties where the median rents were £525 and £575 per month respectively². For such properties, the failure by a contract-holder to pay rent during the two-month notice period would have a financial cost to the landlord of between £1,050 and £1,150

In the event that a contract-holder does not leave at the end of the notice period, a landlord may also incur costs during each stage of the process of regaining possession, for example,

- Cost to apply for a possession order.
- Cost to apply for possession order to be executed by a bailiff.
- Legal costs will normally be settled following conclusion of the matter or following each stage for work undertaken.

Costs to contract-holders

More difficult to quantify are the costs to a contract-holder when only two months’ notice is provided. Such costs can be financial and emotional for a contract-holder and their family. They include the emotional and financial strain of having to find a deposit and rent up-front for new accommodation in only two months. They may also include having to move jobs or fund additional work travel expenses because of the need to find accommodation quickly, rather than more appropriate accommodation, due to the short notice period.

¹ [pri-ld12310-em-e.pdf \(senedd.wales\)](#)

² [Private sector rents: 2019 | GOV.WALES](#)

Similarly, the potential need for children to move schools or travel increased distances, can result in further emotional and financial costs. In particular, having to move home and/or school at short notice can lead to an adverse childhood experience, the emotional cost of which may last for many years.

Cost to local authorities exercising homelessness functions

The loss of rented or tied accommodation is a major contributor to people seeking homelessness assistance from their local authority.

The RIA for the 2021 Act estimated that on average, around 2,800 homelessness presentations per year result from the issuing of a landlord's notice. Updated to take account of subsequent inflation, the average minimum cost for dealing with these cases is estimated at £1,112.³ This would mean that the overall average annual minimum cost of dealing with homelessness presentations resulting from the issuing of a landlord's notice is around £3.11m

Benefits

There are no particular benefits accruing from this option. Landlords would be able to continue to issue two-month section 173 notices in relation to a converted periodic standard contract.

Option 2 –Increase the landlord's notice period in relation to converted periodic standard contracts from two months to six months.

Costs to landlords

Landlord costs

The principal financial cost to an individual landlord in extending notice periods from two to six months will arise if the contract-holder fails to meet their rental liability during the additional four months that it might take for the landlord to regain possession of the property. Taking the 2019 median rents for 2-bedroom and 3-bedroom properties - £525 and £575 respectively - the failure by a contract-holder to pay rent during the additional four months of notice might mean that the landlord would lose out on £2,100 to £2,300 of rental income.

However, the RIA for the 2021 Act assumed, on the basis of a previous survey, that around 83% of landlords who currently issue a two-month landlord's notice, do so in instances where a tenant had already fallen into rent arrears. These landlords would have the option of issuing a notice on a rent arrears ground. The notice periods in relation to these grounds are significantly shorter – one month for breach of contract or just 14 days where there are serious rent arrears equivalent to 8 weeks' or two months' rent. Consequently, a notice issued on these grounds would result in between one and one and a half months less unpaid rent – i.e., a saving to landlords of up to £862.

³ See the [Explanatory Memorandum to the Homelessness \(Priority Need and Intentionality\) \(Wales\) Regulations 2022](#)

Furthermore, if the tenants do not leave at the end of the notice period and a claim to the court needs to be made by the landlord in order to regain possession, Ministry of Justice data suggests that in the case of breach of contract/serious rent arrears cases, the average length of time from the point of claim to repossession is around one month less than under the claim procedure normally followed where a landlord's notice has been issued. This might mean that landlords could avoid an additional one month's worth of unpaid rent by pursuing a claim on grounds relating to rent arrears.

There are, though, potential additional impacts on a landlord associated with them seeking to regain possession of their property via the breach of contract or serious rent arrears grounds. For example, they may be required to attend a court hearing and there may be legal costs that would not arise in relation to the procedure followed where a landlord's notice is given. Furthermore, the contract-holder could mount a defence at the hearing or pay off the arrears before it takes place, which may result in possession not being granted. Although it is not possible to calculate the cost of these impacts on landlords, they are the principal reason why, currently, the landlord's notice route is often followed even where there are serious rent arrears – there is not normally a hearing where that route is followed and the ground is mandatory rather than discretionary, meaning the court will in normal circumstances grant possession to the landlord. However, where a landlord's notice is increased to six months, it is reasonable to assume (as the RIA for the 2021 Act does) that 75% of those notices that might otherwise have been issued as a two-month landlord's notice will now be issued under grounds relating to rent arrears.

This would mean that, for every four notices issued in relation to a two-bedroom property, once the increase to a six-month no-fault notice is implemented, three will be issued on breach of contract/serious rent arrears grounds, saving on average between £1575 and £2362⁴ compared with the current situation, and one notice issued as a landlord's notice which would cost around £2,100 more. If these four notices resulted in a claim to the court, for the reason set out above, a further three months of unpaid rent might be saved in relation to three of them – a saving of £1575.

Landlords' rights regarding their property, for example to move into or sell the property, will be protected, albeit that they will need to wait six months to exercise such rights, rather than the current two months (provided that the contract has already run for six months).

Costs, savings and benefits to contract-holders

Under this option, contract-holders will receive six months' notice to find alternative accommodation if served a section 173 notice. Consequently, contract-holders will have a more realistic prospect of sourcing suitable alternative accommodation, preparing for a move, raising funds for removals costs and deposits. In particular, a longer notice period allows people time to source accommodation that is right for

⁴ i.e., between £525 x 3(months) in relation to breach of contract and £525 x 5.5(months) in relation to serious rent arrears

their household, in a location that minimises disruption to education, caring responsibilities and employment. The ability to plan for a move will also result in fewer people needing to take out short-term loans, such as pay day loans, to bridge the costs of moving.

An additional impact of the extended notice period is that section 173 would no longer be seen as simpler alternative to the other possession grounds. This would mean landlords who desired possession more quickly in cases of a breach of contract would have to rely on a more specific ground, for example in relation to rent arrears. This would provide an opportunity for the contract-holder to mount a defence to these proceedings, unlike under section 173 (there could, for example, be scope to make a counter-claim for dis-repair).

However, it has been suggested by consultees that extending the notice period for converted periodic standard contracts to six months could lead to landlords becoming more selective about the types of individuals they let to or leaving the market altogether. This could result in higher rents in the private rented sector as private landlords become more risk-averse, with greater demands – and costs – being placed on community landlords, leading to longer housing waiting lists and increased waiting times for individuals seeking accommodation in the social rented sector. These same concerns were raised in relation to the increase in the landlord's notice period made by the 2021 Act that amended the 2016 Act to apply a six-month no-fault notice period to new contracts. However, there is no evidence of significant rent increases attributable the 2021 Act⁵ and the number of properties and landlords registered with Rent Smart Wales has remained relatively stable in recent months⁶, despite the imminent implementation of the 2016 Act. The figures indicate that around 700 to 800 landlords a month are leaving the market in Wales – but a similar number are entering the market. There is no reason to believe that a change to notice periods for converted periodic standard contracts would upset this balance, given the longer-term changes that will already apply from 1 December 2022.

Cost saving to local authorities exercising homelessness functions

This option also supports the goals of the homelessness provisions within the Housing (Wales) Act 2014. Homelessness presentations due to the loss of a private rented sector tenancy would likely reduce, due to contract-holders having a better opportunity to source alternative accommodation. This will lead to a cost saving to local authorities, as set out below.

The RIA for the 2021 Act estimated that on average around 2,800 homelessness presentations per year result from the issuing of a landlord's notice. However, for the reasons previously set out, once the notice period for a landlord's notice is increased

⁵ [ONS data](#) shows that private rental prices in Wales grew by 2.5% in the 12 months to August 2022. This compares with 3.4% in England and 3.6% in Scotland

⁶ For example, the number of registered properties was 207,771 at the end of July 2022 and 208,082 at the end of August. Similarly, there were 100,157 registered landlords at the end of July and 100,191 at the end of August.

to six months, it is assumed that around 75% of notices previously issued as landlord's notices would be issued as notices on other grounds. In these circumstances only around 700 homelessness presentations (i.e. 25% of the current number) might be expected to result from a landlord's notice. However, a six-month notice period will provide more time for contract-holders to source alternative accommodation before requiring the help of local authority homelessness services. The 2021 Act RIA referred to this as 'self-resolving' and estimated that the proportion of contract-holders (who would otherwise have been made homeless) who would be able to source alternative accommodation as a result of the notice period being extended would be between 0% to 40%, with 10% - i.e. 70 persons - considered the most likely figure.

Using those same assumptions and taking into account only that proportion of landlord's notices that are likely to arise in relation to a converted periodic standard notice, the following table sets out the likely cost savings for local authority homelessness services (based on the minimum average cost of dealing with a homelessness presentation case being £1,112) over the five-year period⁷.

	Converted periodic standard contracts = 30%	Converted periodic standard contracts = 50%	Converted periodic standard contracts = 70%
2023/24	£23,352	£38,920	£54,448
2024/25	£17,514	£29,190	£40,836
2025/26	£13,135	£21,892	£30,627
2026/27	£9,852	£16,419	£22,970
2027/28	£7,388	£12,314	£17,227

The 2021 Act RIA estimated £2,702 (adjusted for inflation) to be the maximum average cost of a homelessness presentation case (of the cases that proceed to the point where a local authority falls under the duty set out section 75 of the Housing (Wales) Act 2014). It is also likely that average costs have increased significantly since those costs were last calculated (as a result of the increase in the use of temporary accommodation by local authorities), but the necessary data is not available to update the average costs. Therefore, the actual savings to the local authorities might be considerably greater than those set out in the table above.

Option 3 – Increase to six months notice periods in relation to both a landlord's notice for a converted periodic standard contract and an end of term notice for a converted fixed term standard contract

As mentioned at above, this option has not been taken forward for further analysis.

⁷ For example, if 30% of all occupation contracts in the PRS are converted periodic standard contracts in 2023/24, the calculation represents 30% of 70 x £1112. Each subsequent year represents a 25% decrease in that figure based on the rate at which converted periodic standard contracts can be expected to decline a proportion of all standard contracts.

Conclusion

Taking into account the limited financial cost it has to landlords (assuming they choose to exercise their ability to pursue possession on relevant grounds), the modest savings to local authority homelessness services and the benefits that greater security and increased notice periods for contract-holders, the preferred option is Option 2.

8. Competition Assessment

The changes proposed by the Regulations are being applied to all landlords that currently rent out a property as a home under a periodic assured shorthold tenancy. The broad application of the changes, and their diminishing effect over time (because the number of converted contracts will inevitably reduce as contracts end) means that no changes to the overall structure or size of the private rented sector are expected. Furthermore, no change is expected in terms of business competitiveness, the voluntary sector or charities. There is therefore no risk of a detrimental effect on competition.

Increasing the section 173 notice period for periodic standard contracts would, if landlords continue to use section 173 in the same way as they currently use section 21, make it more costly for landlords to evict contract-holders who are not paying rent, are committing antisocial behaviour, or otherwise breaching the terms of their tenancy. However, this will bring converted periodic standard contracts into line with new periodic standard contracts and there remain more relevant grounds under which a landlord could pursue possession more quickly in such circumstances. We therefore expect landlords to use these more relevant grounds more frequently in future.

Extending the notice period to six months could lead to landlords becoming more selective about the types of individuals they let to or leaving the market altogether. However, as set out above, there is no evidence to suggest the market has contracted in Wales in response to the imminent changes already set out in the Renting Homes Act.

9. Post implementation review

The implementation of these Regulations will be monitored and evaluated as part of the wider independent evaluation project commissioned for the 2016 Act.