



Llywodraeth Cymru
Welsh Government

PUBLICATION

Renting Homes (Wales) Act 2016: improving security of tenure by increasing the period of notice

We want your views on proposals to extend the notice period required for converted periodic standard contracts, under section 173 of the Renting Homes (Wales) Act.

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Overview

This consultation seeks views on the following proposal relating to converted periodic standard occupation contracts:

- that the minimum period of notice given when a landlord's notice is issued under section 173 of the Renting Homes (Wales) Act 2016 ('the 2016 Act') is increased from two months to six months
- that this proposed increase takes effect six months after the 2016 Act is brought into force on 1 December 2022

A converted periodic standard contract is one that converts from an existing periodic assured shorthold tenancy (AST) or licence when the 2016 Act comes into force. The proposed change would align the minimum notice period required in relation to converted contracts with that applying to new periodic standard contracts that are agreed on or after 1 December.

How to respond

You can submit your response by 24 October 2022, in any of the following ways:

- Complete our [online form](#)
- Download, complete our [consultation response form](#) and email it to: RentingHomes@gov.wales. Please include the reference number **WG45895** in the subject of your email
- Download, complete our [consultation response form](#) and post to the address stated below.

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Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

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This document is also available in Welsh

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company).

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Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or 0303 123 1113

Website: <https://ico.org.uk/>

What is this consultation about?

1. The Welsh Government is dedicated to ensuring everyone has a safe home in which to live. Our [Programme for Government](#) contains a number of commitments for improving housing in Wales. They include a commitment to 'Implement the Renting Homes Act... to give renters greater security and develop a national scheme restricting rent to local housing'. The Act will simplify and make more accessible the legislative framework around renting, which will be of benefit to landlords and tenants alike.

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2. Furthermore, as part of our **Co-operation Agreement** with Plaid Cymru, we have pledged to implement the 2016 Act in order to give more protections for tenants and licensees, and make clearer their rights and responsibilities.
3. When the 2016 Act comes into force on 1 December 2022, it will provide much greater security of tenure for new contracts issued from this date (twelve months minimum in the case of new periodic standard contracts). However currently, the 2016 Act provides for those contracts that convert to remain subject to a two-month landlord's notice, mirroring the existing legislative arrangements.
4. The focus of our proposals, as set out in this consultation, is to increase the minimum notice period for a landlord's notice issued in relation to a converted periodic standard contract from two months to six months.

What is the current position?

5. Most private tenants in Wales have an Assured Shorthold Tenancy (AST) issued under the Housing Act 1988 ('the 1988 Act'). Under section 21 of the 1988 Act, landlords are able to make a possession claim to the Court following a minimum two-month notice period, without needing to give a reason (the so-called 'no fault' ground).
6. **The 2016 Act** replaces various and complex pieces of legislation, including provisions of the 1988 Act, with one clear legal framework. In particular it will replace periodic ASTs (and licences) with periodic standard occupation contracts.
7. For new periodic standard contracts agreed on or after 1 December:
 - landlords must give at least six months' notice (under section 173 of the

2016 Act -which effectively replaces section 21 of the 1988 Act) to end the contract (providing contract-holders do not break a term of the contract, in which case shorter notice may be given in accordance with other sections of the 2016 Act).

- a section 173 notice **cannot** be issued for the first six months of occupation.

8. However, as the 2016 Act does not end existing ASTs and instead converts them to occupation contracts, it retains some existing rights for both landlord and tenant. This currently includes a landlord's ability to issue under section 173 a two-month rather than a six-month notice.

Why are we proposing Legislative Change?

9. We have recently amended Schedule 12 to the 2016 Act to provide for a periodic standard contract arising following the ending of a converted fixed term standard contract to be subject to a six-month no-fault notice. However, we consider that there is a strong argument for increasing the minimum notice period that applies in relation to converted periodic standard contracts.
10. When the 2016 Act commences on 1 December, and for a long time thereafter, the majority of tenants who rent their homes in the private sector will continue to be subject to a two-month no-fault notice period. Based on the number of registered properties, this could be as many as 200,000 converted contracts at the point of conversion. The number will reduce gradually over time as existing fixed term contracts become periodic 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. But even so, in the case of periodic standard contracts, it is likely that even some years from the date of implementation, a significant number of contract-holders will still

remain subject to two-month notice periods.

11. This has the practical disadvantage of rendering the Renting Homes system less effective in terms of improving security of tenure for ASTs 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.
12. In addition, in the period since the 2016 Act was amended to improve security of tenure for renters (through the provisions of the Renting Homes (Amendment) (Wales) Act 2021) there have been a number of developments that have dramatically changed the housing landscape.
13. 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 suggest 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).
14. 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 23,200 people supported into temporary accommodation since March 2020. In

addition, as a nation of sanctuary, Wales has quite rightly welcomed those fleeing war in Ukraine, Afghanistan and Syria and this too has meant an increase in demand for temporary accommodation: [Ukrainian Resettlement Programme](#) and [Afghanistan](#).

15. 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 latest landlord possession claims data from the Ministry of Justice, for April to June 2022, highlights 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 various restrictions on evictions that applied during 2020 and 2021.

What are we proposing?

16. Taking into account the experience gained during the period when Covid related restrictions were in place, the current pressures on temporary accommodation, which show no sign of abating, and the increasing pressures on PRS tenants, we believe that there is now a good case for extending to converted periodic standard contracts, the six-month minimum notice period for landlords' notice that is already required in relation to new periodic standard contracts.
17. The benefits of longer notice periods were set out in original [Explanatory](#)

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Memorandum for the 2021 Act and remain valid. In brief summary, these included:

- Time to find suitable alternative accommodation within the same community or area where they 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 for 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 move around their everyday lives, including employment and family commitments, in a manner more similar to those who are selling their home.
18. Increasing the landlord's notice period to six months in relation to converted periodic standard contracts, will still enable a landlord to regain their property more promptly where the contract-holder has breached the terms of their contract (e.g. in relation to serious rent arrears where the notice period is only 14 days). 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.
19. With the 2016 Act coming into force on 1 December, we have 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 our proposed change would represent a significant change to the effect of 2016 Act's provisions at a relatively late stage, we think that there is a strong case for applying these changes six months after the Act comes into force, thus allowing landlords time to make any necessary adjustments to prepare for their implementation.

20. Converted fixed term standard contracts are excluded from the scope of our proposal. 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 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.

Timescales

21. The 2016 Act will still come into force on 1 December 2022. However, as described above, our proposal is that the increase in the period of notice in relation to a landlord's notice given in connection with a converted periodic standard contract, would not take effect until six months after the 2016 Act comes into force.

Consultation questions

Question One

Are you a:

Tenant

Landlord

Letting / Management Agent

Representative Body

Local Authority

Other (please state)

Question Two

In the case of converted periodic standard contracts, do you support increasing the notice period required under section 173 of the 2016 Act from two months to six months?

Yes/No/Don't know

Question Three

If 'yes' to Q2, when do you think this change should take effect?

- a) As soon as Renting Homes (Wales) Act 2016 comes into force
- b) 6 months after the 1 December implementation date
- c) Other (please specify)

Question Four

If you are a tenant and have answered 'yes' to Q2, which of the following benefits below are most important to you?

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- a) Increased confidence and feeling of wellbeing
- b) Added security as a result of having six rather than two months to find alternative accommodation
- c) Greater likelihood of being able to find alternative accommodation within the same community or area
- d) More time to save up for a move (e.g. deposit or future rent)
- e) Other (please specify)

Question Five

If you are a landlord and have answered 'no' to Q2, which of the following are most important you:

- a) Easier / quicker to gain possession of property
- b) Short term rental is preferred
- c) Other (please specify)

Question Six

Please provide any further thoughts on the proposals set out in this consultation including the impact that the current 2 month notice period has had on you as a landlord or tenant, positively or negatively.

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