



Llywodraeth Cymru
Welsh Government

GUIDANCE

Creating a converted occupation contract: guidance for landlords

Use this guidance to create a written statement for a converted occupation contract.

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Introduction

Nearly all tenancies and licences which exist prior to the appointed day (the day the Act comes into force) of the Renting Homes (Wales) Act 2016 (the Act) will convert to occupation contracts. The type of occupation contract they convert to will depend on the type of tenancy or licence they were prior to the appointed day. For example, a secure tenancy held by a local authority tenant will convert into a secure occupation contract, and an assured shorthold tenancy held by a tenant of a private landlord will convert to a standard occupation contract. As an example, this guidance focuses on a periodic assured shorthold tenancy (AST) which will convert to a periodic standard occupation contract.

Unlike new occupation contracts issued after the Act comes into force, where the default terms of the contract will be those set out in the Act and any accompanying regulations, the conversion process recognises there are certain terms which exist within current tenancies and licences where it would be unfair to the landlord or contract-holder to replace them. Schedule 12 is the mechanism for the conversion of contracts and sets out the special rules which apply to the conversion process, some of which will be covered later in this guidance.

Conversion strikes a balance between the required terms necessary for the occupation contract to operate under the Act, whilst making specific provision for some existing terms to be maintained within the converted contract.

This guidance sets out the changes that would be required to the terms included in the model written statement of a periodic standard contract (as set out in the [Renting Homes \(Model Written Statements of Contract\) \(Wales\) Regulations 2022](#)) in order to convert a periodic AST to a periodic standard contract. Under the Act landlords are required to provide the contract-holder with a written statement and whilst there is no obligation on any landlord to use the model written statement (MWS) as a template for conversion, it is likely to be the

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most straightforward starting point for converting an existing AST.

A landlord will also need to consider [The Renting Homes \(Explanatory Information for Written Statements of Occupation Contracts\) \(Wales\) Regulations 2022 \(senedd.wales\)](#) for any explanatory information which may apply to the converted contract.

An example of the way that the explanatory information might be set out in a converted periodic standard contract is included at Annex A

Existing AST conversion using the MWS sets out the process a landlord might follow when comparing the AST to the periodic standard contract MWS. As set out, a landlord will need to review each of the existing terms of the AST to decide whether that term will, or will not, form part of the converted contract.

Together with this review a landlord will also have to consider the impact of Schedule 12 to the Act on the terms of the contract.

Other guidance documents will also provide helpful advice for landlords, however, as a reference for this guidance an occupation contract will consist of four different types of term.

- **Key matters:** Which for example include the names of the parties, rent payable and address of the property. These must be inserted in every contract.
- **Fundamental Terms:** Cover the most important aspects of the contract, including the possession procedures and the landlord's obligations regarding repair.
- **Supplementary Terms:** Deal with the more practical, day to day matters applying to the occupation contract, for example, the requirement for a contract-holder to notify the landlord if the property is going to be empty for four weeks or more.
- **Additional Terms:** Addresses any other specifically agreed matters, for

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example a term which relates to the keeping of pets. Any additional terms must be fair, as required by the Consumer Rights Act 2015 and must not conflict with a key matter, fundamental term or supplementary term.

Existing AST conversion using the MWS as template

When an existing AST converts to an occupation contract under section 240 of the Act a landlord must consider whether the terms of the existing tenancy or licence are compatible with the fundamental terms required to be included by the Act.

A landlord could choose to transfer existing terms into the relevant MWS to simplify the process. For example, a periodic AST will convert into a periodic standard occupation contract, allowing the periodic standard contract MWS to act as template for conversion.

A landlord will need to make the following assessment:

- Are any of the existing terms incompatible with the fundamental terms in the MWS? If they are, the incompatible existing terms are deleted.
- Are the remaining terms of the AST incompatible with the supplementary terms of the MWS? If so, the supplementary term is removed and replaced by the existing term of the AST.
- Lastly any existing terms of the AST which still remain after this comparison process is completed will form part of the occupation contract as additional terms,

A Landlord can then transfer existing terms to the converted contract.

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The new converted contract will now likely contain 4 sets of terms:

- Key Terms
- Fundamental Terms
- Supplementary Terms
- Additional Terms (comprised of previous terms of the contract that are not fundamental terms or supplementary terms)

A written statement must be provided to the contract-holder.

Under a converted contract a landlord has up to six months from the implementation date of the Act to provide a written statement of the contract to the contract-holder.

Until the written statement is provided to the contract-holder no further variation of the contract is possible.

Conversion of existing tenancy or licence

Following **existing AST conversion using the MWS as template** a landlord will consider the existing terms of their current AST and their compatibility with the MWS. The first determination will be whether any of the existing terms are incompatible with the fundamental terms of the MWS, fundamental terms are denoted by an '(F)' or '(F+)' within the MWS.

(F) denotes a fundamental term which cannot be modified or omitted.

(F+) denotes a fundamental term which can be modified or omitted where the effect of this would be that the position of the contract-holder is improved.

Once a written statement has been provided to the contract-holder the terms of the converted contract may be varied if agreed.

Examples of current terms which would be incompatible with fundamental terms are as follows:

1. Term 23 of the MWS is a fundamental term (F+) allowing a contract-holder, who suffers any loss, injury or damage to personal property because of a landlord's failure to comply with their obligations under fitness for human habitation or repair, to bring proceedings for such loss, injury or damage against the landlord. Any existing term which places no responsibility on the landlord for any injury, loss or damage as a result of disrepair would be incompatible with the fundamental term. As a result of this incompatibility the existing term will be removed and will not form part of the occupation contract.
2. Term 41 of the MWS is a fundamental term (F+) and it allows a contract-holder to end the occupation contract after providing notice to the landlord. Term 42 of the MWS is also a fundamental term (F+) and it sets the minimum notice period required by the contract-holder to end the occupation contract at 4 weeks. Any existing term which prevents a contract-holder from ending the occupation contract through the giving of a notice or which sets such a notice period longer than 4 weeks would be incompatible with the fundamental term/s. As a result of this incompatibility the existing term/s will be removed and will not form part of the occupation contract.
3. Term 82 of the MWS is a fundamental term (F) and requires that *any notice, statement or other document required or authorised to be given or made by an occupation contract must be in writing*. Any existing term which allows, for example a landlord to provide any statement verbally or issue any notice over the telephone would be incompatible with the fundamental term. As a result of this incompatibility the existing term will be removed and will not form part of the occupation contract.
4. Term 74 of the MWS is a fundamental term (F+) requiring a landlord and

contract-holder to *agree to any variation of a contract term*. Any existing term which allows, for example a landlord to vary any term unilaterally would be incompatible with the fundamental term. As a result of this incompatibility the existing term will be removed and will not form part of the occupation contract.

Having completed the comparison of existing terms against the fundamental terms of the MWS, a landlord can go on to compare the remaining terms of their AST against the supplementary terms of the MWS. Supplementary terms are denoted by an '(S)' within the MWS. Unlike fundamental terms which supersede any incompatible existing terms, a supplementary term which is incompatible with an existing term is itself removed from the MWS and replaced by the pre-existing term.

Examples of a current terms which would be incompatible and as a consequence replace the supplementary term within the MWS.

1. Term 9 of the MWS is a supplementary term which prevents the contract-holder carrying out any form of business from the dwelling without the landlord's consent. However, such a term would be incompatible with any existing term which currently permits a business to be carried out from the dwelling. As a result of this incompatibility the supplementary term will be removed and replaced by the existing term in the converted contract.
2. Term 24 of the MWS is a supplementary term which deals with changes to the dwelling without the consent of the landlord. Under this term a contract-holder is, for example, prevented from erecting a satellite dish or shed without first obtaining consent of the landlord. However, such a term would be incompatible with any existing term which permits any such change without the need for consent. As a result of this incompatibility the supplementary term will be removed and replaced by the existing term.
3. Term 26 of the MWS is a supplementary term which deals with the security

of the dwelling and requires the contract-holder to notify the landlord if the dwelling has or will be unoccupied for 28 or more consecutive days.

However, such a term would be incompatible with any existing term which sets a different requirement, such as a shorter or longer period, around notifying the landlord should the dwelling be vacant. As a result of this incompatibility the supplementary term will be removed and replaced by the existing term.

4. Term 83 of the MWS is a supplementary term which requires the contract-holder to keep safe and pass on any notices, orders or documents addressed to the landlord within a reasonable time. However, such a term would be incompatible with any existing term which sets a different requirement, such as a postal redirect or the landlord collecting such documents from a safe place. As a result of this incompatibility the supplementary term will be removed and replaced by the existing term.

Having completed the comparison of all existing terms with the fundamental and supplementary terms, it is likely there will still be some existing terms of the AST remaining. In such cases those terms which remain, provided they are not incompatible with any fundamental or supplementary term, will form part of the new occupation contract as *additional terms*. Examples of current terms which would convert to additional terms of the occupation contract include terms relating to:

- the keeping of pets;
- the upkeep of garden areas;
- the payment of community charges within an HMO; or
- parking restrictions at the dwelling.

Schedule 12 to the Renting Homes (Wales) Act 2016

Schedule 12 to the Act makes special provision in relation to tenancies and licences which existed before the Act came into force. Specifically, within the context of this guidance, Schedule 12 overrides some of the outcomes which would arise when a landlord undertakes the conversion process previously set out.

For example:

Terms 55 of the MWS is a fundamental term (F+) and allows a landlord to serve a possession notice on the contract-holder, even where the contract-holder has not breached the contract. Term 56 is also a fundamental term (F+) and requires the notice period of a notice served under term 55 to be a minimum of six months. These terms are incompatible with existing notice provisions under section 21 of the Housing Act 1988. For example, section 21 of the 1988 Act requires the landlord to serve a minimum of only two months' notice. Following the conversion process set out above, any existing terms relating to section 21 within the current contract would be incompatible with terms 55 and 56 and would be removed on conversion. However, for converted contracts, Schedule 12 of the Act makes specific provision preserving the minimum two-month notice period under section 174 of the Act for the first six months following conversion on the 1 December (reflected in term 56 of the MWS). After this initial six-month period the notice required under term 56 may not be less than six months to align with all new occupation contracts issued from the 1 December. This is described further in the example comparison below. See also *Table 1 – The Application of Schedule 12*.

Example A - Terms 55 and 56 for new occupation contracts:

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Termination by the landlord: landlord's notice

55. Landlord's notice (F+)

The landlord may end this contract by giving you notice that you must give up possession of the dwelling on a date specified in the notice.

56. Minimum notice period (F+)

The date specified in any notice given under term 55 may not be less than **six** months after the day on which the notice is given to you.

Example B - Terms 55 and 56 for converted occupation contracts:

Termination by the landlord: landlord's notice

55. Landlord's notice (F+)

The landlord may end this contract by giving you notice that you must give up possession of the dwelling on a date specified in the notice.

56. Minimum notice period (F+)

The date specified in any notice given under term 55 between 1 December 2022 and 31 May 2023 may not be less than **two** months after the day on which the notice is given to you. The date specified in any notice given under term 55 after 31 May 2023 may not be less than **six** months after the day on which the notice

is given to you.

Table 1: the application of schedule 12

Provisions contained within Schedule 12 which are relevant to the conversion of an AST are set out below. This table does not include all the provisions of Schedule 12, some of which may be relevant after the conversion process has been completed. Landlords should also review this guidance and Schedule 12 for any further additions or clarifications made prior to implementation of the Act.

The Application of Schedule 12

| Schedule 12 provision | Application |
|--|---|
| 11 | |
| (1) The landlord must give the contract-holder under a converted contract a written statement of the contract before the end of the period of six months starting with the appointed day (“the information provision period”). | Provides a period of six months*, from the date the Act comes into force, for a landlord to provide a written statement to the contract-holder, including where there is a change of contract-holder. *This six-month period is referred to as the information provision period. |
| (1A) Section 31(2) (provision of written statement to new contract-holder) does not apply in relation to a converted contract during the information provision period. | Consequently, in relation to a converted contract, term 76(1) as set out in model written statement for a periodic standard contract, should be substituted with: |
| (2) Any references in this Act to the | <i>The landlord must give you a written statement of</i> |

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Schedule 12 provision**Application**

landlord's obligation under section 31(1) are to be read, in relation to converted contracts, as references to the landlord's obligation under subparagraph (1).

the contract before the end of the period of six months starting with the 1 December 2022 (“the information provision period”).

Furthermore, Term 76(2) should be substituted with:

If, after the information provision period has ended, there is a change in the identity of the contract-holder, the landlord must give the new contract-holder a written statement of the contract before the end of the period of 14 days starting with —

1. a.
 - i. *the day on which the identity of the contract-holder changes, or*
 - ii. *if later, the day on which the landlord (or in the case of joint landlords, any one of them) becomes aware that the identity of the contract-holder has changed.*

12

Sections 36 and 37 (applications to court) apply in relation to a written statement provided because of paragraph 11(1) as if for the words in section 36(3) and 37(3) there were substituted—

“If the landlord was required to

The contract-holder may not make an application to the court in relation to a landlord's breach of section 36 or 37 until after the end of the information provision period (6 months). However, where the landlord has provided the written statement before the end of the information provision period a contract-holder may make an application to the court after 14 days of receipt of the written statement.

Schedule 12 provision**Application**

provide the written statement under paragraph 11(1) of Schedule 12, the contract-holder may not apply to the court under subsection (1) before—

(a) the end of the information provision period (within the meaning of Schedule 12), or

(b) if earlier, the period of 14 days starting with the day on which the landlord gave the contract-holder the written statement.”

12A

(1) Schedule 9A (restrictions on giving notice under section 173, under section 186, and under a landlord's break clause) applies in relation to a converted contract as if—

(a) paragraph 1 were omitted, and

(b) for paragraph 2 there were substituted—

“Failure to provide written statement within the specified period

2

A landlord who fails to provide a written statement under a converted contract within the specified time is prevented from issuing a notice under section 173 for a period of six months. This six-month period begins on the day the written statement is provided to the contract-holder.

Consequently, term 63 as set out in model written statement for a periodic standard contract should be omitted from a converted contract. At the same time, term 64 should substituted with:

If—

(a) a landlord is required to provide a written statement of the contract under term 76(1) or

Schedule 12 provision**Application**

If—

under term 76(2), and

(a) a landlord is required to provide a written statement of the contract under paragraph 11(1) of Schedule 12, or under section 31(2) (where it is not disapplied by paragraph 11(1A) of that Schedule), and

(b) the landlord has failed to comply with term 76(1) or term 76(2),

the landlord may not give notice before the end of the period of six months starting with the day on which the landlord gave the written statement to the contract-holder.

(b) the landlord has failed to comply with paragraph 11(1) or section 31(2),

the landlord may not give notice before the end of the period of six months starting with the day on which the landlord gave the written statement to the contract-holder.”

13

(1) Section 39(1) (information about landlord's address) applies in relation to a converted contract as if for “the period of 14 days starting with the occupation date of the contract” there were substituted “the information provision period (within the meaning of Schedule 12)”.

A landlord has until the end of the information provision period to comply with section 39(1) and give notice to the contract-holder of an address to send documents to the landlord. The information provision period does not apply to section 39(2) or 39(3).

(2) Section 40(2) (compensation) applies in relation to section 39(1), as modified by sub-paragraph (1), as if

Paragraph 13(2) clarifies that any compensation due to the contract-holder because of a landlord's failure to comply with section 39(1) is payable from the beginning of the last 14 days of the information provision period.

Schedule 12 provision

Application

the relevant date were the first day of the period of 14 days ending with the last day of the information provision period (and accordingly section 40 is to be read as if subsection (5) were omitted).

Consequently, in relation to a converted contract, term 78(1) as set out in the model written statement for a periodic standard contract, should be substituted with:

The landlord must, before the end of the information provision period (within the meaning given in term 76(1)), give you notice of an address to which you may send documents that are intended for the landlord.

Furthermore, Term 79(2) should be substituted with:

The compensation is payable in respect of the first day of the period of 14 days ending with the last day of the information provision period and every day after that date until—

(a) the day on which the landlord gives the notice in question, or

(b) if earlier, the last day of the period of two months starting with the first day of the period of 14 days ending with the last day of the information provision period.

And finally, Term 79(5) should be omitted.

Variation

14

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Schedule 12 provision**Application**

(1) A converted contract may not be varied before the landlord has given the contract-holder a written statement of the contract.

Except for the variation of rent no term of the contract may be varied until the written statement has been provided to the contract-holder.

(2) Sub-paragraph (1) does not apply to a variation under section 104 or 123 (variation of rent).

16

Section 101 does not apply to a converted contract; accordingly—

Ensures liability for the contract-holder in relation to waste operates as it did before the contract converted and ensures the continued application of the current rule of law relating to tenant-like manner.

(a) a contract-holder under a converted contract is subject to the same liability for waste in respect of the dwelling as he or she was subject to immediately before the appointed day, and

(b) the rule of law under which a tenant has an implied duty to use demised premises in a tenant-like manner applies to a contract-holder under a converted contract as it applied to him or her immediately before the appointed day.

Dealing**18**

Schedule 12 provision**Application**

(1) This paragraph applies in relation to a converted contract—

(a) which is a secure contract or periodic standard contract, and

(b) under which there are joint contract-holders who were tenants in common in equity immediately before the appointed day.

(2) The provisions of fixed term standard contracts mentioned in subsection (1) of each of sections 140, 141 and 142 (transfers) are terms of the contract, and subsections (2) and (3) of each of those sections apply accordingly.

Applies the provisions applicable to fixed term standard contracts, namely sections 140, 141 and 142 to a converted contract which prior to conversion was an AST relating to tenants in common in equity.

Termination of contract by landlord**25A2**

“(a) the reference in section 174(1) (landlord’s notice: minimum notice period) to “six months” were, in relation to a notice given under section 173 during the period of six months starting with the appointed day, a reference to “two months”.

This is set out in example B above.

A landlord will retain the right to issue a minimum two-month notice under section 173 (landlord’s notice) but only for the first six months after conversion of the existing contract on the 1 December 2022. Any notice issued under section 173 after the 31 May 2023 will require a minimum six-month notice period.

Schedule 12 provision**Application**

The occupation date**31**

The occupation date, in relation to a converted contract, is the day on which the contract-holder became entitled to occupy the dwelling under the tenancy or licence which became an occupation contract on the appointed day.

The occupation date of a converted contract is the date upon which the contract-holder was originally entitled to occupy the dwelling under the previous AST.

Annex A

Converted periodic standard occupation contract: explanatory information

This is your written statement of the occupation contract you have made under the Renting Homes (Wales) Act 2016 (“the Act”). The contract is between you, as the “contract-holder,” and the “landlord”. It replaces the previous tenancy or licence agreement that you agreed with your landlord.

Your landlord must give you a written statement, free of charge, within six months of 1 December 2022, which is the date your previous tenancy or licence agreement converted to an occupation contract. If you did not receive a copy of this written statement (including electronically, if you have agreed to receive the written statement in an electronic form) within six months of that date , for each day after that date that the written statement has not been provided, the landlord

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may be liable to pay you compensation, equivalent to a day's rent, up to a maximum of two months' rent (unless the failure was intentional in which case you can apply to the court to increase this amount).

The written statement must contain the terms of your contract and the explanatory information that the landlord is required to give you. The terms set out your rights and responsibilities and those of the landlord (that is, the things that you and your landlord must do or are permitted to do under the occupation contract). You should read the terms to ensure you fully understand and are content with them and then sign where indicated to confirm that you are content. The written statement should be kept safe as you may need to refer to it in the future.

The terms of your contract consist of:

key matters – that is, the address of the dwelling, the occupation date, the amount of rent (or other consideration^[1]) and the rental period (i.e. the period in respect of which the rent is payable (e.g. weekly or monthly)).

fundamental terms – these are provisions of the Act that are automatically included as terms of an occupation contract. Some cannot be changed and must reflect the wording in the Act^[2]. However, others can be left out or changed once the landlord has given you a written statement of the occupation contract, but only if you and the landlord agree to do that and it benefits you as the contract-holder.

supplementary terms – these are provisions, set out in regulations made by the Welsh Ministers, which are also automatically included as terms of an occupation contract. However, those supplementary terms that are incompatible with the terms of your tenancy or licence agreement prior to its conversion to an occupation contract, will be left out of the occupation contract. This ensures you do not lose rights you have agreed under your previous contract. Once the landlord has given you a written statement of occupation contract these

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supplementary terms can be left out or changed, either to benefit you or the landlord as long as you and the landlord agree. Supplementary terms cannot be changed in a way that would make those terms incompatible with a fundamental term.

Where a fundamental or supplementary term has been left out or changed, this must be identified in this written statement.

The terms of your contract may also include:

additional terms – these are the terms of the tenancy or licence agreement contract, agreed by the you and the landlord prior to its conversion to an occupation contract, which continue to have effect. However, any existing term which is incompatible with any fundamental term must not be included in this written statement.

Under section 62 of the Consumer Rights Act 2015, an additional term, or any change to a supplementary term, which is unfair (within the meaning of that Act), is not binding on you.

An incorrect or incomplete written statement may mean the landlord is liable to pay you compensation.

Once you have received this written statement and any changes are agreed after the start of this contract, the landlord must provide you with a written copy of the new term or terms or a new written statement of this contract, within 14 days of the change being agreed.

Your contract is a periodic standard contract, which means that it continues from one rental period to the next (typically from month to month or week to week). It also means that you cannot be evicted without a court order, unless you abandon the dwelling.

Before a court makes such an order the landlord must demonstrate that the

correct procedures have been followed and that at least one of the following is satisfied:

1. you were given at least two months' notice (increasing to six months for notices issued after 31 May 2023) under section 173 of the Act (Landlord's notice) that you must give up possession and that the notice was not issued in the four months following the occupation date and no other restrictions on the giving of a notice applied, including the restrictions set out in sections 75 and 98 of the Housing Act 2004 and section 44 of the Housing (Wales) Act 2014,
2. you have broken one or more terms of this contract (which includes any arrears of rent, engaging in anti-social behaviour or other prohibited conduct, and failing to take proper care of the dwelling) and it is reasonable to evict you,
3. you are seriously in arrears with your rent (e.g. if the rental period is a month, at least two months' rent is unpaid), or
4. your landlord needs to move you, and one of the estate management grounds under section 160 (estate management grounds) of the Act applies, suitable alternative accommodation is available (or will be available when the order takes effect), and it is reasonable to evict you.

You have important rights as to how you can use the dwelling, although some of these require the consent of your landlord. Someone who lives with you at the dwelling may have a right to succeed to this contract if you die.

You must not allow the dwelling to become overcrowded by permitting more people to live in it than the maximum number allowed. Part 10 of the Housing Act 1985 provides the basis for determining the maximum number of people permitted to live in the dwelling.

You can be held responsible for the behaviour of everyone who lives in and visits the dwelling. Anti-social behaviour and other prohibited conduct can include excessive noise, verbal abuse and physical assault. It may also include

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domestic abuse (including physical, emotional and sexual, psychological, emotional or financial abuse).

If you have a problem with your home, you should first contact your landlord. Many problems can be resolved quickly by raising them when they first arise. If you are unable to reach an agreement with your landlord, you may wish to contact an advice agency (such as Citizens Advice Cymru or Shelter Cymru) or independent legal advisors. Disputes regarding your contract may ultimately be settled through the county courts.

If you have any questions about this contract, you may find the answer on the Welsh Government's website along with other relevant information, such as information on the resolution of disputes. Alternatively, you may wish to contact an advice agency (such as Citizens Advice Cymru or Shelter Cymru) or independent legal advisors.

[1] “Other consideration” could include, for example, doing something equivalent to paying rent such as providing a service to or undertaking work for the landlord.

[2] Under section 33 of the Act, editorial changes may be made to the wording of a term providing they do not change the substance of that term in any way.

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