

RH 30

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol/
Communities, Equality and Local Government Committee
Bil Rhentu Cartrefi (Cymru)/Renting Homes (Wales) Bill
Ymateb gan: Cymdeithas Tai Sir Fynwy
Response from: Monmouthshire Housing Association

Section 1, 'occupation contract' and 'contract holder'

We do not believe the term 'occupation contract' and 'contract holder' should be used to replace 'tenancy agreement' and 'tenant'. This is seen as an unnecessary complication and we do not believe it will simplify terminology - licences will still exist in law anyway. There seems no real benefit in trying to create new terms.

Section 2, 'sub-section 2 'kinds of landlords'

Where it says, "In general (a) occupation contracts made with or adopted by community landlords are secure contracts", it could also be made clear that community landlords (Local Authorities and RSLs) will use standard tenancy agreements for new tenants.

Section 13 and 14, 'notice of standard contract and review of notice'

Part 2, subsection 1, 'kinds of landlords' seems to imply that all RSLs are Community Landlords. Although the Bill then seems to indicate in Section 9, subsection 1(b) that fully mutual housing associations and cooperative housing associations are not community landlords. With the latter, the Bill should make clearer that sections 13 and 14 do not apply to fully mutual housing associations and cooperative housing associations.

We do not agree with the requirement of a community landlord having to issue a notice to also issue a standard contract. Nor why a review similar to judicial review may be necessary, if a tenant disputes this type of tenancy agreement. It is unclear why a court would quash the decision of a community landlord to issue a standard contract.

Section 52, Sub-section 1 'Joint contract-holder ceasing to be a party to the occupation contract'

"If a joint contract-holder under an occupation contract dies, or ceases to be a party to the contract for some other reason, from the time he or she ceases to be a party the remaining joint contract-holders are—(a) fully entitled to all the rights under the contract, and (b) liable to perform fully every obligation owed to the landlord under the contract"

It should be confirmed whether or not this affects succession rights i.e. counts as a priority succession, where the joint contract-holder ceases to be a party to the contract.

Section 55, Sub-section 5 'Anti-social behaviour and other prohibited conduct'

Where it says, "The contract-holder must not—allow, incite or encourage any person who is living in or visiting the dwelling", this represents a fundamental change to the current position, where tenants are responsible for the behaviour of everyone residing in and/or visiting the property. This may reduce a landlord's ability to address ASB and we support the amendment of this section to reflect the current position where tenants are responsible for the behaviour of everyone residing in and/or visiting the property.

Section 59 'Sub-occupation contracts: interpretation'

The Act may benefit from also mentioning licences in relation to lodgers here.

Section 64 'Possession claim against contract-holder where there is a sub-holder'

The requirement for the landlord to issue a notice to a sub-contract holder (sub-tenant) regarding possession proceedings, may not be possible if the landlord has no knowledge of the sub-tenancy or does not know the identity of the sub-tenant. Can it be added, that notifying the sub-tenant is necessary only where the landlord is aware of the sub-tenancy and it has been agreed in accordance with the occupation contract?

Section 76, Sub-section 3 'Reserve successor: family member'

Where it says, "(3) A person meets the basic residence condition if throughout the period of 12 months ending with the contract-holder's death— (a) he or she occupied the dwelling, or (b) he or she lived with the contract-holder" it should also be made clear they will have needed to have occupied the dwelling as their principal home.

Section 77, Sub-section 3 'Reserve successor: carer'

Where it says a successor can qualify where they provide a 'substantial amount of care' – the Act could benefit from defining this sentence, to promote consistency in interpretation.

Section 79 'Effect of succession'

Under this section make clear the successor takes on the benefits and burdens of the tenancy.

Section 83 'Succession: Interpretation'

It may also be appropriate to highlight that a successor may be expected to move to a smaller property.

Section 84, Sub-section 4 'landlord's consent: reasonableness'

Where it says, "The landlord may ask for information to enable the landlord to deal with a request; but the landlord may not do so after the end of the period of 14 days starting with the day on which the request is made" it may be clearer to state, when the request is received in writing by the landlord, rather than when the request is made.

Section 84, Sub-section 10 'landlord's consent: reasonableness'

Where it says, "if the landlord does not give a written statement of reasons before the end of the period of two months starting with the day on which the statement is asked for, the landlord is to be treated as having consented without conditions", should additional caveats be included here? e.g. consent should not be assumed where an action is likely to endanger property or persons.

Section 98, 'landlord's right to access dwelling'

The Bill may benefit from including a provision regarding what happens in an emergency and immediate access is required and there is no time to serve a notice under this section e.g. if there's a water leak damaging property and neighbouring properties and a tenant cannot be contacted or if it is thought a person's life may be in danger.

Section 103-108 'variation'

We support a landlord being able to give a notice of variation to the contract-holder, to vary the secure contract (as long as fundamental requirements are not altered), without joint agreement between the landlord and contract-holder being a requirement. We request that this provision is altered to make it uniform with the section that deals with the variation of standard contracts.

Section 111, Sub-section 5 'withdrawal'

Where it states, “the joint contract-holder ceases to be a party to the contract on the withdrawal date”, it should be made clear if they remain responsible for historic tenancy breaches e.g. rent arrears.

Section 113, ‘lodgers’

It could be made clear that the occupation contract the lodger has is a licence under this section.

Section 114, ‘Transfer to potential successor’

Make clear if transfer counts as a succession.

Section 151, ‘early termination by contract holder’

Make it clearer that early termination cannot occur before a fixed occupation contract ends here. This section may benefit from including provisions on implied surrender of the tenancy.

Section 209/14, ‘Review of claim made on absolute ground’

Altering this ground to make it dependent on a county court’s discretion could significantly harm victims and witnesses in serious ASB cases. We recommend that the Bill be amended to incorporate the ASB Crime and Policing Act’s current ground 7a for possession.

Section 216, ‘possession of abandoned dwellings’

The Bill could potentially add here that, should a tenant have breached their tenancy agreement and the landlord has followed legislation and guidance, the landlord cannot be prosecuted for illegal eviction.

Section 217, ‘disposal of property’

The Bill could add a section around what happens if there are surplus funds, following potential sale of a tenant’s possession, especially if the tenant cannot be located.

Section 221, ‘non-occupation: exclusion by landlord’

Under this section it could be considered how the landlord would serve notice to end a non-occupant’s joint tenancy (with at least one tenant left, continuing the tenancy) if the former cannot be located.

Section 227, 'termination of occupation contract with joint contract-holders'

Under this section it states, "if there are joint contract-holders under an occupation contract, the contract cannot be ended by the act of one or more of the joint contract-holders acting without the other joint contract-holder or joint contract-holders." However, the Bill should consider that this may be an issue in serious cases of domestic abuse. In some situations a joint tenancy may currently be ended and re-granted as a sole tenancy (based on management grounds) by social landlords. It appears that this will no longer be possible. We request the Bill is altered to retain the ability for landlords to operate discretion to do this.

Section 235, 'Implied tenancies and licences'

Under this section, it needs to be defined what actions a landlord needs to take to treat a person not subject to an occupation contract as a trespasser (thereby not enabling a tenancy agreement by default).