

**EXPLANATORY MEMORANDUM TO THE CODE OF PRACTICE FOR
LANDLORDS AND AGENTS LICENSED UNDER PART 1 OF THE HOUSING
(WALES) ACT 2014**

This Explanatory Memorandum has been prepared by the Housing Policy Division and is laid before the National Assembly for Wales 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 Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014

Minister for Communities and Tackling Poverty

6 October 2015

1. Description

1.1 This is a Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014. Anyone who holds a licence must adhere to the statutory requirements as set out in the Code. Failure to do so can lead to loss of a licence.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 None.

3. Legislative background

3.1 Section 40 of the Housing (Wales) Act 2014 requires Ministers to issue a Code of Practice setting standards relating to letting and managing rental properties.

3.2 The procedure for producing a Code is the affirmative procedure by virtue of section 40(5) and (6) of the Act.

4. Purpose & Intended Effect of the Legislation

4.1 Part 1 of the Housing (Wales) Act 2014 introduces a mandatory registration scheme for private landlords and a requirement for private landlords and agents who carry out letting / management tasks to be licensed.

4.2 The Licensing Authority will control the registration scheme for landlords and the licensing scheme for landlords and agents who operate in the private rented sector in Wales.

4.3 Section 22 of the Housing (Wales) Act 2014 makes it a condition that any person issued with a licence under Part 1 of the same Act must comply with the Code of Practice.

4.4 Section 25 allows a licensing authority to remove a licence if the licence holder breaches a condition of their licence.

4.5 In basic terms, the Code of Practice will contain a list of statutory requirements which a landlord and / or agent have to adhere to as a condition of being granted a licence. The statutory requirements are all legal obligations which a landlord or agent has to adhere to in any case. Prosecution in any of these cases will also now mean that the licence, and therefore the ability to let or manage a property, can be taken away.

4.6 Section 27 of the Housing (Wales) Act 2014 allows for appeals against revocation of a licence, including for breach of the Code of Practice (as a licence condition).

5. Consultation

- 5.1 An informal consultation with private rented sector stakeholders was held between 25 February and 9 March 2015. This consisted of the initial draft of the Code of Practice which had been drawn up following agreement with stakeholders about the make-up of the Code.
- 5.2 Comments from the informal consultation were incorporated into a redrafted Code of Practice. A formal 8-week consultation was held between 27 March and 22 May 2015.
- 5.3 On 14 May 2015, the Communities, Equality and Local Government (CELG) Committee wrote to the Minister for Communities and Tackling Poverty stating that they had decided to hold an information gathering session surrounding the Code of Practice. They asked for early sight of any consultation responses received to date to identify any areas of concern.
- 5.4 The CELG Committee held a session on 4 June with representatives from across the sector. They subsequently wrote to the Minister for Communities and Tackling Poverty with a list of concerns which arose during these sessions.
- 5.5 The Minister also met with members of the CELG Committee to explain the next steps for the Code of Practice following the formal consultation period.
- 5.6 The Summary of Responses to the formal consultation was published on 14 July 2015. Responses received were generally favourable. Quite a few suggestions were made regarding the layout and content of the Code, especially in terms of the language used in the Code.
- 5.7 A redrafted Code was produced taking on board the responses received during the formal consultation which were mirrored by the CELG Committee.
- 5.8 The redrafted Code was again shared with stakeholders for a final informal consultation between 12 August and 3 September.
- 5.9 Comments received from this consultation were favourable. Some suggestions were taken on board to form the final version of the Code.

6. Regulatory Impact Assessment (RIA)

- 6.1 No separate RIA has been prepared as the Impact Assessment prepared for the Act is relevant and a copy may be obtained from the Department for Housing and Regeneration, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF41 1UZ.