



Housing (Wales) Act 2014

2014 anaw 7

PART 1

REGULATION OF PRIVATE RENTED HOUSING

Enforcement

VALID FROM 23/11/2016

28 Prosecution by a licensing authority or a local housing authority

- (1) A licensing authority may bring criminal proceedings in respect of an offence under —
 - (a) section 4(2), 6(4), 7(5), 9(2), 11(3) or 13(3) if the alleged offence arises in respect of a dwelling in the area for which it is the licensing authority;
 - (b) section 16(3) or 23(3), in respect of information to be provided to the licensing authority;
 - (c) subsection (1) or (4) of section 38, in respect of anything required by a notice given by a person authorised by the authority;
 - (d) subsection (1) or (2) of section 39, in respect of information supplied to the authority.
- (2) A local housing authority that is not the licensing authority for its area may, with the consent of the licensing authority for the area, bring criminal proceedings in respect of an offence under section 4(2), 6(4), 7(5), 9(2), 11(3) or 13(3), if the alleged offence arises in respect of a dwelling in its area.
- (3) A licensing authority may give its consent under subsection (2) generally or in specific cases.
- (4) This section does not affect—
 - (a) any other power of the person designated under section 3 to bring legal proceedings;

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- (b) section 222 of the Local Government Act 1972 (power of local authorities to prosecute or defend legal proceedings).

29 Fixed penalty notices

- (1) Where on any occasion a person authorised in writing for the purpose of this section by a licensing authority has reason to believe that a person has committed an offence under this Part (other than an offence under section 13(3) or section 38(4)), the authorised person may, by notice, offer the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the authority.
- (2) Where a person is given a notice under this section in respect of an offence—
 - (a) no proceedings may be issued for that offence before the expiration of the period of 21 days following the date of the notice;
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (3) A notice under this section must—
 - (a) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,
 - (b) state the period during which proceedings will not be taken for the offence,
 - (c) state the amount of the fixed penalty, and
 - (d) state the person to whom and the address at which the fixed penalty may be paid.
- (4) The fixed penalty payable to a licensing authority under this section is £150 unless the offence is an offence attracting an unlimited fine; in which case, the fixed penalty payable is £250.
- (5) The Welsh Ministers may amend subsection (4) by order.
- (6) Payment of a fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (3)(d) at the address so mentioned; but this does not prevent payment by another method.
- (7) Where a letter is posted in accordance with subsection (6) payment is to be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post.
- (8) In any proceedings a certificate—
 - (a) which purports to be signed on behalf of a person authorised for this purpose by the licensing authority, and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
 is evidence of the facts stated.
- (9) A licensing authority may use its fixed penalty receipts only for the purposes of its functions relating to the enforcement of this Part.
- (10) In this section, “licensing authority” means—

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- (a) in the case of an offence under section 4(2), 6(4), 7(5), 9(2) or 11(3), the licensing authority for the area in which the dwelling to which the offence relates is located;
 - (b) in the case of an offence under section 16(3) or 23(3), the licensing authority to which the information to which the offence relates was provided;
 - (c) in the case of an offence under section 38(1), the licensing authority which authorised the person who gave the relevant notice;
 - (d) in the case of an offence under section 39(1) or (2), the licensing authority to which the information was supplied.
- (11) A local housing authority that is not the licensing authority for its area may, with the consent of the licensing authority for the area, exercise the functions of the licensing authority under this section concurrently with the licensing authority; but only in respect of the offences mentioned in subsection (10)(a).
- (12) And where a local housing authority exercises functions under this section by virtue of subsection (11), the references in subsections (1), (4), (8), (9) and (10)(a) to “licensing authority” are to be read as if they were references to the local housing authority.

Commencement Information

II S. 29 in force at 1.12.2014 for specified purposes by S.I. 2014/3127, art. 2(b), Sch. Pt. 2

VALID FROM 23/11/2016

30 Rent stopping orders

- (1) A residential property tribunal may, in accordance with this section, make an order (a “rent stopping order”) in relation to a dwelling subject to a domestic tenancy on an application made to it by—
- (a) the licensing authority for the area in which the dwelling is located, or
 - (b) the local housing authority for the area in which the dwelling is located.
- (2) But a local housing authority may not make an application under subsection (1) without the consent of the licensing authority mentioned in paragraph (a) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.
- (3) Where the tribunal makes a rent stopping order—
- (a) periodical payments payable in connection with a domestic tenancy of the dwelling which relate to a period, or part of a period, falling between a date specified in the order (the “stopping date”) and a date specified by the tribunal when the order is revoked (see section 31(4)) are stopped,
 - (b) an obligation under a domestic tenancy to pay an amount stopped by the order is treated as being met,
 - (c) all other rights and obligations under such a tenancy continue unaffected,
 - (d) any periodical payments stopped by the order but made by a tenant of the dwelling (whether before or after the stopping date) must be repaid by the landlord, and

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- (e) the authority which made the application for the order must give a copy of it to—
 - (i) the landlord of the dwelling to which the order relates;
 - (ii) the tenant of the dwelling.
- (4) The tribunal may make a rent stopping order only if it is satisfied of the matters mentioned in subsections (5) and (6).
- (5) The tribunal must be satisfied that an offence is being committed under section 7(5) or 13(3) in relation to the dwelling (whether or not a person has been convicted or charged for the offence).
- (6) The tribunal must be satisfied that—
 - (a) the authority making the application for the order has given the landlord and the tenant of the dwelling a notice (a “notice of intended proceedings”)—
 - (i) explaining that the authority is proposing to apply for a rent stopping order,
 - (ii) setting out the reasons why it proposes to do so,
 - (iii) explaining the effect of a rent stopping order,
 - (iv) explaining how a rent stopping order may be revoked, and
 - (v) in the case of a notice given to a landlord, inviting the landlord to make representations to the authority within a period of not less than 28 days specified in the notice,
 - (b) the period for making representations has expired, and
 - (c) the authority considered any representations made to it within that period by the landlord.
- (7) The tribunal may not specify a stopping date for the purpose of subsection (3)(a) which precedes the date on which the rent stopping order is made.
- (8) An amount payable by virtue of subsection (3)(d) which is not repaid is recoverable by the tenant as a debt due to the tenant from the landlord.
- (9) In subsection (5), the reference to an offence committed under section 13(3) does not include an offence committed in consequence of a contravention of subsection (1) of that section.

VALID FROM 23/11/2016

31 Revocation of rent stopping orders

- (1) A residential property tribunal may, in accordance with this section, revoke a rent stopping order made in respect of a dwelling under section 30.
- (2) The tribunal may revoke an order only—
 - (a) on an application by—
 - (i) the licensing authority for the area in which the dwelling is located,
 - (ii) the local housing authority for the area in which the dwelling is located, or
 - (iii) the landlord of the dwelling, and

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- (b) if it is satisfied that an offence under section 7(5) or 13(3) is no longer being committed in relation to the dwelling.
- (3) But a local housing authority may not make an application under subsection (2) without the consent of the licensing authority mentioned in paragraph (a)(i) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.
- (4) Where the tribunal revokes a rent stopping order, periodical payments in connection with a domestic tenancy of the dwelling become payable from a date specified by the tribunal (which may, if the tribunal considers it appropriate, be a date earlier than the date on which the order is revoked).
- (5) But revocation of a rent stopping order does not make a person liable to pay any periodical payments which, by virtue of the order, were stopped in respect of the period beginning with the stopping date (see section 30(3)(a)) and ending with the date specified by the tribunal when revoking the order.
- (6) If a rent stopping order is revoked following an application made under subsection (2) (a)(i) or (ii), the authority which made the application must notify the following persons that the order is revoked and of the effect of the revocation—
 - (a) any tenant or occupier of the dwelling, and
 - (b) the landlord of the dwelling.
- (7) Where revocation occurs following an application made by a landlord, the licensing authority for the area in which the dwelling is located must ensure that any tenant or occupier of the dwelling is notified that the order is revoked and of the effect of the revocation.
- (8) In subsection (2)(b)—
 - (a) the reference to an offence section 7(5) does not include an offence committed in consequence of a contravention of subsection (3) of that section, and
 - (b) the reference to an offence committed under 13(3) does not include an offence committed in consequence of a contravention of subsection (1) of that section.

VALID FROM 23/11/2016

32 Rent repayment orders

- (1) A residential property tribunal may, in accordance with this section and section 33, make an order (a “rent repayment order”) in relation to a dwelling on an application made to it by—
 - (a) the licensing authority for the area in which the dwelling is located,
 - (b) the local housing authority for the area in which the dwelling is located, or
 - (c) a tenant of the dwelling.
- (2) But a local housing authority may not make an application under subsection (1) without the consent of the licensing authority mentioned in paragraph (a) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.

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- (3) A “rent repayment order” is an order made in relation to a dwelling which requires the appropriate person (see subsection (9)) to pay to the applicant such amount in respect of the relevant award or awards of universal credit or the housing benefit paid as mentioned in subsection (5)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (7)(b), as is specified in the order.
- (4) The tribunal may make a rent repayment order only if it is satisfied—
- (a) where the applicant is the licensing authority or a local housing authority (as the case may be), of the matters mentioned in subsection (5);
 - (b) where the applicant is a tenant, of the matters mentioned in subsection (7).
- (5) The tribunal must be satisfied—
- (a) that at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (6) an offence under section 7(5) or 13(3) has been committed in relation to the dwelling (whether or not a person has been charged or convicted for the offence);
 - (b) that—
 - (i) one or more relevant awards of universal credit have been paid (to any person), or
 - (ii) housing benefit has been paid (to any person) in respect of periodical payments payable in connection with a domestic tenancy of the dwelling,
 during any period during which it appears to the tribunal that such an offence was being committed, and
 - (c) the requirements of subsection (6) have been complied with in relation to the application.
- (6) Those requirements are—
- (a) that the authority making the application must have given the appropriate person a notice (a “notice of intended proceedings”)—
 - (i) informing the person that the authority is proposing to make an application for a rent repayment order,
 - (ii) setting out the reasons why it proposes to do so,
 - (iii) stating the amount that it will seek to recover under that subsection and how that amount is calculated, and
 - (iv) inviting the person to make representations to the authority within a period of not less than 28 days specified in the notice;
 - (b) that period must have expired, and
 - (c) that the authority must have considered any representations made to it within that period by the appropriate person.
- (7) The tribunal must be satisfied that—
- (a) a person has been convicted of an offence under section 7(5) or 13(3) in relation to the dwelling, or that a rent repayment order has required a person to make a payment in respect of—
 - (i) one or more relevant awards of universal credit, or
 - (ii) housing benefit paid in connection with a tenancy of the dwelling;
 - (b) the tenant paid to the appropriate person (whether directly or otherwise) periodical payments in respect of the tenancy of the dwelling during any

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period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling, and

- (c) the application is made within the period of 12 months beginning with—
- (i) the date of the conviction or order, or
 - (ii) if such a conviction was followed by such an order (or vice versa), the date of the later of them.

(8) In this section—

- (a) references to an offence under section 7(5) do not include an offence committed in consequence of a contravention of subsection (3) of that section, and
- (b) references to an offence committed under section 13(3) do not include an offence committed in consequence of a contravention of subsection (1) of that section.

(9) In this section—

“appropriate person” (“*person priodol*”), in relation to any payment of universal credit or housing benefit or periodical payment in connection with a domestic tenancy of a dwelling, means the person who at the time of the payment was entitled to receive, on that person's own account, periodical payments in connection with the tenancy;

“housing benefit” (“*budd-dal tai*”) means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992;

“relevant award of universal credit” (“*dyfarniad perthnasol o gredyd cynhwysol*”) means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations 2013 (housing costs element for renters) (SI 2013/376) or any corresponding provision replacing that Schedule, in respect of periodical payments in connection with a domestic tenancy of the dwelling;

“tenant” (“*tenant*”), in relation to any periodical payment, means a person who was a tenant at the time of the payment (and “tenancy” has a corresponding meaning).

(10) For the purposes of this section an amount which—

- (a) is not actually paid by a tenant but is used to discharge the whole or part of the tenant's liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and
 - (b) is not an amount of universal credit or housing benefit,
- is to be regarded as an amount paid by the tenant in respect of that periodical payment.

VALID FROM 23/11/2016

33 Rent repayment orders: further provision

- (1) Where, on an application by the licensing authority or a local housing authority (as the case may be) for a rent repayment order, the tribunal is satisfied—
- (a) that a person has been convicted of an offence under section 7(5) or 13(3) in relation to the dwelling to which the application relates, and

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(b) that—

- (i) one or more relevant awards of universal credit were paid (whether or not to the appropriate person), or
- (ii) housing benefit was paid (whether or not to the appropriate person) in respect of periodical payments payable in connection with a domestic tenancy of the dwelling during any period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling in question,

the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority which made the application the amount mentioned in subsection (2); but this is subject to subsections (3), (4) and (8).

(2) The amount is—

(a) an amount equal to—

- (i) where one relevant award of universal credit was paid as mentioned in subsection (1)(b)(i), the amount included in the calculation of that award under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations 2013 (housing costs element for renters) (SI 2013/376) or any corresponding provision replacing that Schedule, or the amount of the award if less, or
- (ii) if more than one such award was paid as mentioned in subsection (1)(b)(i), the sum of the amounts included in the calculation of those awards as referred to in sub-paragraph (i), or the sum of the amounts of those awards if less, or

(b) an amount equal to the total amount of housing benefit paid as mentioned in subsection (1)(b)(ii) (as the case may be).

(3) If the total of the amounts received by the appropriate person in respect of periodical payments payable as mentioned in paragraph (b) of subsection (1) (“the rent total”) is less than the amount mentioned in subsection (2), the amount required to be paid by virtue of a rent repayment order made in accordance with subsection (1) is limited to the rent total.

(4) A rent repayment order made in accordance with subsection (1) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(5) In a case where subsection (1) does not apply, the amount required to be paid by virtue of a rent repayment order is to be such amount as the tribunal considers reasonable in the circumstances; but this is subject to subsections (6) to (8).

(6) In such a case, the tribunal must take into account the following matters—

- (a) the total amount of relevant payments paid in connection with a tenancy of the dwelling during any period during which it appears to the tribunal that an offence was being committed in relation to the dwelling under section 7(5) or 13(3);
- (b) the extent to which that total amount—
 - (i) consisted of, or derived from, payments of relevant awards of universal credit or housing benefit, and
 - (ii) was actually received by the appropriate person;

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- (c) whether the appropriate person has at any time been convicted of an offence under section 7(5) or 13(3);
 - (d) the conduct and financial circumstances of the appropriate person; and
 - (e) where the application is made by a tenant, the conduct of the tenant.
- (7) In subsection (6) “relevant payments” means—
- (a) in relation to an application by the licensing authority or a local housing authority (as the case may be), payments of relevant awards of universal credit, housing benefit or periodical payments payable by tenants;
 - (b) in relation to an application by a tenant, periodical payments payable by the tenant, less—
 - (i) where one or more relevant awards of universal credit were payable during the period in question, the amount mentioned in subsection (2)(a) in respect of the award or awards that related to the tenancy during that period, or
 - (ii) any amount of housing benefit payable in respect of the tenancy of the dwelling during the period in question.
- (8) A rent repayment order may not require the payment of any amount which—
- (a) where the application is made by the licensing authority or a local housing authority (as the case may be), is in respect of any time falling outside the period of 12 months ending with the date of the notice of intended proceedings given under section 32(6), or
 - (b) where the application is made by a tenant, is in respect of any time falling outside the period of 12 months ending with the date of the tenant's application under section 32(1);
- and the period to be taken into account under subsection (6)(a) is restricted accordingly.
- (9) Any amount payable by virtue of a rent repayment order is recoverable as a debt due to the licensing authority, local housing authority or tenant (as the case may be) from the appropriate person.
- (10) And an amount payable to the licensing authority or a local housing authority by virtue of such an order does not, when recovered by it, constitute an amount of universal credit or housing benefit (as the case may be) recovered by the authority.
- (11) Subsections (8), (9) and (10) of section 32 apply for the purposes of this section as they apply for the purposes of section 32.

34 Power for Welsh Ministers to make regulations in relation to sections 32 and 33

- (1) The Welsh Ministers may by regulations make such provision as they consider appropriate for supplementing the provisions of sections 32 and 33.
- (2) Regulations made under subsection (1) may, for example, make provision—
 - (a) for securing that persons are not unfairly prejudiced by rent repayment orders (whether in cases where there have been over-payments of universal credit or housing benefit or otherwise);
 - (b) requiring or authorising amounts received by the licensing authority or local housing authorities by virtue of rent repayment orders to be dealt with in such manner as is specified in the regulations.

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Commencement Information

I2 S. 34 in force at 1.12.2014 for specified purposes by S.I. 2014/3127, art. 2(b), Sch. Pt. 2

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35 Offences by bodies corporate

- (1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of—
 - (a) a director, manager, or secretary of the body corporate, or
 - (b) a person purporting to act in such a capacity,that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.
- (2) The reference to the director, manager or secretary of the body corporate includes a reference—
 - (a) to any similar officer of the body;
 - (b) where the body is a body corporate whose affairs are managed by its members, to any officer or member of the body.

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