



## The Temporary Extension of Notice Periods for Notices Seeking Possession in Wales

26<sup>th</sup> August 2020

### Background

The *Coronavirus Act 2020* extended the majority of notice periods for notices seeking possession in England and Wales to three months, ending on 30<sup>th</sup> September 2020. The same Act empowers Welsh ministers to further amend notice periods but not beyond six months. The 'relevant period' during which the amended notice periods apply can also be extended by ministers, a power they hold until the expiry of the *Coronavirus Act 2020* in March 2022 or when ended by UK Parliament, whichever is sooner.

Welsh ministers have flexibility over which notice periods to amend, including targeting specific grounds and sections.

Generally, housing associations (HAs) use the same tenancy regime as the private rented sector (PRS) in Wales. This means that any changes to notice periods aimed at the PRS will affect HAs and it is impossible to exempt HAs.

### Current situation (Wales)

The stay on repossession activity beyond the filing of claims in England and Wales remains in force until 20<sup>th</sup> September 2020, following a last minute extension. This is a decision taken by UK Government in conjunction with the English and Welsh judiciary.

On 24<sup>th</sup> July, Welsh notice periods for S.21 and S.8 under assured and assured shorthold tenancies were extended to six months, with the exception of the ASB grounds 7a and 14, which remain at three months as per the changes made in the *Coronavirus Act 2020*. These changes currently expire on 30<sup>th</sup> September 2020, at which point notice periods revert to their pre-pandemic levels, unless Welsh ministers lay further regulations.

### Current situation (England)

UK Government have announced their intention to extend notice periods to six months for all but ASB and domestic violence grounds. This will apply until March 2021. There is currently little detail or an expected date of implementation. We expect that ASB and DV grounds (7a,14,14a etc.) would revert to pre-pandemic levels, but this is not confirmed.



### **Current situation (Scotland)**

Scottish Government intend to pass legislation through their parliament to extend their current provisions through to March 2021. This would retain a six month notice period for rent arrears and three months for ASB.

The Scottish tribunals are currently sisting (suspending) all new repossession action. Actions can only proceed if the landlord is able to persuade the court that it is a matter of significant urgency. Where actions do proceed, the Sheriff retains the power to refuse repossession orders, particularly where covid-19 related rent arrears are involved. We expect this situation to remain for some time.

### **Beyond September 2020**

With the current regulations extending notice periods in Wales due to end on 30<sup>th</sup> September 2020, we expect action from Welsh ministers to further extend the relevant period beyond September. Given the intention to extend the relevant period in England to March 2021, it is likely that Welsh Government will follow.

We are working with Welsh Government to make the case for reduced notice periods, particularly for ASB and DV grounds. This has included writing to the Minister and providing officials with a range of examples detailing the impact on communities of the inability to take action within three months in cases of serious ASB.

We continue to cite the #withyou commitments and highlight the low numbers of notices served as evidence of housing associations' commitment to their tenants.

### ***The Renting Homes (Amendment) (Wales) Bill***

The current First Minister included a pledge to increase security of tenure in the private rented sector in his manifesto during the Welsh Labour leadership election. This translated into the drafting of the *Renting Homes (Amendment) (Wales) Bill*, which is currently in the early stages of Stage 1 in the Senedd, delayed due to the pandemic.

The Bill intends to increase the notice period for S.173<sup>1</sup> of the *Renting Homes (Wales) Act 2016* from two months, to six. Following this, UK Government announced their intention to abolish S.21 of the *Housing Act 1988* altogether in England and Wales, although we have seen little progress towards this. To date, Welsh Government have held to their original intention to extend the notice period for S.173, rather than removing the provision. This is primarily a measure aimed at increasing security of tenure in the PRS. However, housing associations are impacted due to the proposed use of variants of the standard contract.

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<sup>1</sup> S.173 of the Act is similar in its effect to S.21 of the Housing Act 1988



The *Renting Homes (Wales) Act 2016* allows the use of the standard contract, to which S.173 applies, by community landlords<sup>2</sup> in the form of three contract types, much in the same way that ASTs are used by HAs in some contexts currently:

- Introductory standard contract (replacement for the starter tenancy and introductory tenancy)
- Prohibited conduct standard contract (replacing the demoted tenancy)
- Standard supported contract (replacing the use of an AST in supported housing contexts)

During the drafting stage, CHC secured exemptions from the extension of the notice period for S.173 for both the prohibited conduct standard contract and the standard supported contract, citing the unique uses of these contract types.

During stage one scrutiny by the Senedd ELGC Committee, we have provided written evidence and answered follow up questions from committee members to make the case for the exemption to extend further to include the introductory standard contract.

There is no clear timetable for the progression of the Bill, which has been reprioritised by Welsh Government following postponement initial lockdown period. We can expect the Bill to receive Assent prior to the Senedd election in May 2021, in order to retain the current timetable for the implementation of the *Renting Homes (Wales) Act 2016* in autumn 2021.

This represents a risk, as a live bill pertaining to security of tenure will be in the Senedd in the run up to the election and as Welsh Government navigates policy solutions to prevent homelessness as the pandemic continues.

Although the Act separates the social and private rented sector tenancy regimes to a greater extent than is the case currently, Welsh Government are likely to wish to replicate any notice period extensions for the private rented sector with the social rented sector. We have had some success in making the case for certain, very specific, social occupation contracts to contain lower notice periods than their PRS equivalents but it is politically very difficult to award a lower security of tenure to social tenants in the run up to an election.

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<sup>2</sup> The Act combines the tenancy regimes of both councils and housing associations into a single regime for 'community landlords'