

Government Response: The Renting Homes (Safeguarding Property in Abandoned Dwellings) (Wales) Regulations 2022

Merit Scrutiny point 1:

This issue was raised during the consultation exercise held in relation to the Regulations and guidance, with some respondents suggesting an exception to the requirement to safeguard property be made in relation to pets. The Welsh Government responded to that point as follows: “*The Regulations outline the landlord’s obligations to safeguard ‘property’¹. In practice, if the landlord believes a pet is still in an abandoned property, an alternative solution would need to be found immediately. It may for instance involve contacting next of kin or the RSPCA to find out whether or not they would be able to take care of the animal(s)*”. In relation to the Regulations themselves, the Welsh Government considers that the addition of the exception in regulation 3(4)(b) (which provides that the landlord need not wait for the prescribed period where adequate safeguarding would “involve unreasonable expense or inconvenience”) is sufficient to enable the landlord to deal with any pet/animal left at the property. The Welsh Government will add this clarification to the guidance document *Possession of abandoned dwellings and safeguarding of property* so that expectations are clear on this matter.

Merit Scrutiny point 2:

A landlord that comes into possession of property (formerly belonging to the contract-holder) which has been left in an abandoned dwelling is often referred to as an “involuntary bailee”. The Torts (Interference with Goods) Act 1977 (the 1977 Act) enables the bailee, provided that certain conditions have been met, to sell the relevant property.

These Regulations strike a balance between the interests of the landlord and the contract-holder when it comes to safeguarding property which remains in the dwelling following abandonment. They provide that a notice must be served, a time limit must be observed and that the landlord must safeguard a contract-holder’s property during that notice period (subject to the exceptions made by the Regulations). The Regulations make the necessary provision to ensure that the relevant property is dealt with in accordance with the 1977 Act.

In the relevant circumstances, title in the abandoned property transfers from the original owner (whether that is the contract-holder or a third party) to the buyer of the property pursuant to section 12(6) of the 1977 Act.

¹ The requirements do not apply to property which is ‘perishable’, or property which would involve ‘unreasonable expense or inconvenience’ to safeguard: landlords may dispose of such property ‘at such time and in such manner’ as they see fit.

In terms of additional safeguards which are in place, we would draw the Committee's attention to section 220(4) of the Act which requires the landlord to undertake such inquiries as are necessary to satisfy the landlord that the contract-holder has in fact abandoned the dwelling.

Furthermore, under section 222 of the Act, a contract-holder may, for up to six months after the day the contract was ended by the landlord, challenge the repossession of the dwelling by the landlord on several grounds including the landlord's failure to serve the proper notice.

The Welsh Government guidance in relation to these Regulations will also recommend that landlords, seeking to make use of the provisions of these Regulations, make a comprehensive inventory, with photographic evidence, of any property that they propose to deal with under these Regulations. The Welsh Government would point out that, in most cases of abandonment, the property to be dealt with pursuant to these Regulations is likely to be of very limited resale value.

Merit Scrutiny point 3:

The Welsh Government did consider such an approach, but discounted it as we concluded that adding examples of further costs or expenses to those already included (i.e. removal/storage costs and rent arrears) was unnecessary. In situations of abandonment in practice, the sums received from the permitted disposals are extremely unlikely to be greater than the permitted expenses that the landlord is likely to be owed. The Welsh Government concluded, consequently, that no further provision was needed.