Tenancy Law: How does it work?

Tenancy Law for Students

First Edition

Nander van 't Klooster

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Colophon

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Wherever this publication refers to the male form, it also refers to the female form, except when it concerns reference words or specific persons.

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Foreword

"Get up, stand up! Stand up for your rights!"

Bob Marley sang it back in 1973: stand up for your rights. Today, many students still do. Examples are your right to student finance, public transport or an actual say in how your school, college, or university is run. I think all of these rights are worth fighting for!

However, as Amsterdam City Council's Executive Member for Housing, I mainly want to discuss your right to housing. It's written on the platform floor at Nieuwmarkt metro station, '***wonen is geen gunst maar een recht***' (housing is not a favour but a right). And we have to fight for that right, because all too often housing is not a given and that certainly is the case in cities with large student populations, such as Amsterdam.

Over the past four years, I have put great effort into getting a lot of much-needed housing built for students and young people. In 2014, we had a shortage of 8,000 housing units, so our goal was to build at least 8,000. We succeeded, so that's fantastic. And yet, the shortage has only continued to grow further. How did that happen?

When it comes to new housing, the city council can set clear conditions as to which groups can live there and the rent they can be charged. This has enabled us to build a lot of affordable housing, also for the long term. However, we have little such say when it comes to existing housing. Poor choices made by the central government in The Hague have seriously affected tenant protection in the Netherlands. Landlords who charge exorbitant rents are given free rein because rents are practically unlimited, even for smaller housing units. As a result, a lot of student housing is now let in the open market, and students - and anyone else on a tight budget - are pushed out of the city.

Even small properties that are still protected by law are now under fire. Too often, profiteering landlords charge rents that are simply not permitted by law or they use illegal tricks such as charging key money or brokerage fees, or they engage in other fraudulent practices. This simply is not permitted and our enforcers deal with this severely. One problem, however, is that many tenants are afraid to challenge their landlord or to contact the rent assessment committee. I understand this fear, but make no mistake, as a tenant, and that includes sub-tenants, you have rights and you are often in a strong position. There are plenty of reasons to take on this battle!

To help you, your local council offers tenant support. They can tell you who to contact for safe and free advice you can rely on. If your landlord proves to be a fraud, they will help you take action. The rent assessment committee will subsequently help you get justice and sometimes get back up to thousands of euros in rent, while also helping other defrauded tenants in the process.
That's why I urge everyone: ***Get up, stand up! Stand up for your rights! Don't give up the fight!***

Laurens Ivens, Executive Member for Housing, Amsterdam City Council, May 2018

List of abbreviations

Abbreviation	Description
AmvB	Order in council
APV	General municipal bylaw
AW	Netherlands Authority for Housing Associations (formerly CFV)
Bbsh	Subsidised Rented Sector (Management) Decree
BW	Dutch Civil Code
B&W	Municipal Executive
BZK	Dutch Ministry of the Interior and Kingdom Relations
CBS	Statistics Netherlands
CFV	Central Fund for Social Housing
DAEB	Service of general economic interest
EPC	Energy Performance Coefficient
HR	Supreme Court of the Netherlands
ILT	Human Environment and Transport Inspectorate
KB	Royal Decree
Kences	Student housing expertise centre
LAS	National Student Housing Action Plan
LHS	National Student Housing Tenant Consultation
LSVb	Dutch Student Union
NJ	Dutch Case Law
RV	Dutch Code of Civil Procedure
SpvE	Urban Terms of Reference
Wohv	Tenants and Landlords (Consultation) Act
Ww	Housing Act
WWS	Housing evaluation points system used to determine if a dwelling falls in or outside the regulated category and to determine the price of those that fall within that category
ZAV	Alterations and improvements by tenants

1. The history of tenancy law and associated legislation

Since the formation of formal cities in the area we now call the Netherlands, both tenants and homeowners have had a need for legislation in the field of housing. Mostly, this was regulated by means of local bylaws on a city-by-city basis. Following the movement towards equality that rose during the French Revolution, tenant protection was formally implemented in the Netherlands. Under Napoleon's reign, the Napoleonic Code was established. This was a period during which the basis was laid for a lot of legislation that still applies today. One example of legislation that dates back to those days is Section 1738 of the Dutch Civil Code, which explains that the landlord can terminate the tenancy contract only with the consent of the tenant.

The Dutch Civil Code of 1838 includes the first statutory national provisions with regard to tenancy law. Due to a lack of homes during WWI and WWII, the influx of hundreds of thousands of refugees (mainly from Belgium), and the presence of an occupying power, tenants were faced with evictions and rent increases. The tenant's position was subsequently deemed too vulnerable, which prompted legislators to lay down by law a number of basic principles about this position. The basis for tenancy law from 1838 was updated after WWII and would continue to exist until adoption of the new tenancy law in 2003, i.e. for more than 165 years.
In parallel to rent legislation, other housing-related legislation emerged, such as the 1901 Housing Act, which enshrined in law the formation of housing associations.

In 1951, the first form of tenancy-related 'mandatory law' (more about that later) was introduced in the form of the Rent Act. This act dealt with restrictions in the field of rent and the right to terminate. It also introduced the concept of 'quiet enjoyment under a tenancy contract.' When in 1967 the shortage in the housing market appeared to have come to an end, the rental market was largely deregulated by partly stripping down the Rent Act and the associated protection.

New tenancy law

Tenancy law reform in 2003 was prompted by the introduction of a new civil code. Also, the old law used terminology that was no longer in line with other forms of law, such as the legal term 'property'. Moreover, the Rent Act of 1951 had been eroded over the preceding fifty years to such an extent that case law (court decisions about the interpretation of statutory provisions) had started to outweigh the act itself. One disadvantage of this was that the judiciary interpreted the well-intended tenant support in a way other than was originally intended by the legislator. Initially, the idea was for the new act to come into effect on 1 January 2003, but due to lengthy debate about certain definitions in the act in the Upper House of Dutch Parliament, the minister was forced to postpone the act's entry into force until 1 August 2003.

The aim of the new tenancy law was to include all statutory provisions in a single title of the Dutch Civil Code. The act contains a lot of clarifications, particularly in the sections about defects to the property, for instance by including terms. Not only did this benefit the tenant, the landlord also gained rights thanks to the clarification. The fact that pre-2003 legislation made an explicit distinction between repairs and maintenance made it difficult to figure out for tenants which provision to invoke to get the landlord

to address defects. Under the old legislation, the tenant was also allowed to sublet the accommodation rented by him, albeit on the condition that the landlord had not objected to this or that the tenant was able to assume that the landlord would not raise reasonable objections (more about that later). The right to sublet was particularly relevant at the time of the student housing shortage in the 20th century and it remains relevant in equal measure to this day.

Another example of differences between old and new tenancy law is the provision about permitted alterations. Under the new legislation, when the tenancy contract terminates, the tenant is no longer obliged to reinstate permitted alterations or repair age-related wear and tear. When no description is provided of the rented property when the tenant moves in, the tenant is expected to have yielded it up in the same condition as when he moved in.

On a closing note, major legislative changes were made in connection with urgent work and renovations.

2. Tenancy law structure, definitions and relevant parties

This chapter contains a crash course in jurisprudence and will go into the combination of national and additional local legislation. The chapter will end with an introduction of all relevant parties.

2.1 Tenancy law structure

Laws have a layered structure, starting with general principles of law, followed by general rules and further specifications of these rules, which often also include exceptions to the rule (and exceptions to the exception). In legal theory, this is referred to as ***lex generalis*** and ***lex specialis.*** This layered structure also applies to tenancy law.

Contract law forms part of so-called civil law or private law and concerns relationships between citizens. Book 6 of the Dutch Civil Code focuses on the principles of the law of obligations. It explains what a contract is. The legislative text in Book 6 stipulates that in this case, a contract is a mutual agreement between two parties under which both parties are obliged to fulfil their rights and obligations towards each other. One example is a purchase agreement (for instance when you buy something from a supermarket) or a loan for use agreement (when you borrow a bike from a fellow student). The basic principle in Dutch contract law is that the parties have contractual freedom, meaning that the parties are free to decide with whom they enter into a contract and what this contract entails. The legislator has, however, built certain safeguards in the form of mandatory provisions into the law to protect one of the parties by limiting contractual freedom In the case of tenancy law, contractual freedom has been limited by

stipulating that deviating from a large number of provisions is permitted only if it is not to detriment of the tenant.
Reasonableness and fairness, together with socially accepted standards, play a key role in civil law. These concepts ensure that parties do not keep insisting on the letter of a law or a contract but prioritise prevention of unreasonable or unfair situations.

Book 7, Title 4: Rent

Book 7 of the Dutch Civil Code contains specifications of the general law of obligations. This book (entitled 'Special contracts') contains additional provisions about things such as buying a house, employment contracts, insurance contracts, and residential tenancy contracts. Given the layered structure of private law, the provisions of the previous books of the Dutch Civil Code apply as long as there is no specific provision that deviates from a general provision in the previous books. The general rule with respect to a tenancy contract, for example, is that it is entered into by means of offer and acceptance (Section 6:217 of the Dutch Civil Code). However, because Book 7 contains more specific provisions, a landlord cannot unilaterally dissolve a tenancy contract without the intervention of a court (Section 7:231(1) of the Dutch Civil Code).[1]

Therefore, tenancy law in Title 4 of Book 7 (starting with Section 201) is a specification of general contract law from Book 6 of the Dutch Civil Code. The title about tenancy law also contains a layered structure. The first sections deal with general provisions, such as the concepts of 'letting,' 'rent,' and 'defects'. The provisions of these sections also apply to renting a car or a drill from a DIY store, for instance. Main Section 5 (from Section 232 to Section 282) specifically deals with renting property. Section 290 and subsequent sections are about leasing business premises. Mixed

[1] There are a number of cases in which the landlord is authorised to unilaterally dissolve a tenancy contract without going through the court process (e.g. Section 7:231(2) of the Dutch Civil Code).

contracts are also possible, regulating both the renting of residential property and the leasing of business premises.

Tenancy law and other laws in Book 7 specify general civil law. Any additional regulations in Book 7 prevail over the general regulations set out in the previous books. The legislator made a well-considered decision to benefit the tenant, because the tenant is more dependent on the landlord than the landlord on the tenant. After all, there is always some degree of shortage in the housing market. Viewings always attract multiple potential tenants, giving the landlord a bigger choice. 'Take it or leave it, there's plenty more potential tenants lining up behind you" is a phrase that almost every student looking for a room in a university town has heard.

Another difference in Book 7 is that the legislative texts in this book are often of a mandatory nature. This means that deviation from the statutory regulation is not permitted if it is to the detriment of the tenant. Apart from the tenant and the landlord, this also applies to the judiciary issuing a ruling on the basis of legislation and regulations.

The legislation also refers to more detailed provisions, regulations and decrees. If the legislator does make such a reference, the court can use these regulations as delegations and attributions of the law in order to substantiate its decision. These regulations may also refer to the possibility for other organisations and local authorities to draw up further legislation. The rent assessment committee's Policy or Defects Book is one example of that, in addition to local housing regulations.

On a final note, tenancy law does not cover houseboats, staff accommodation, leisure homes and rooms in nursing homes. In

the case of houseboats, this is because they have a mooring that is not a permanent ground-based structure. This is also why when a houseboat is sold, the additional purchasing costs are payable by the vendor rather than the buyer. Tenant protection comes into play only in the event that the boat is actually and permanently anchored to a concrete structure, for instance. Staff accommodation is made available during employment, which means this rather concerns a contract for use.

Lodgers enjoy partial tenant protection. As the tenant is living with the landlord, enforcing the same rules may result in an unfavourable situation for the landlord.

2.2 Local and regional legislation

Each local authority or (urban) region may have further legislation in place to tackle certain issues. One example is the legislation in Groningen, where they have put a cap on how much of the total housing stock in a street can be used for non-self-contained (room) lettings. Also, the zoning plan may stipulate restrictions regarding the conversion of buildings into residential units. On a closing note, every region has a housing allocation policy in place that forms a guideline for the way in which regulated housing must be allocated.

Local legislation must be based on the existing possibilities described in the Housing Act. The Housing Act gives local authorities the power to distinguish various categories of people who seek housing, as a result of which certain groups are given priority in the regional housing policy. One example of this kind of regional legislation is imposing a permit requirement, under which tenants and buyers have to demonstrate the ties they have with a region (employment or studies, for instance) in order to get a housing permit.

Wider regional agreements may also be in place. The city of Leiden, for instance, offers a ***Housing costs allowance for people who rent a room***, i.e. financial compensation for municipal waste and sewerage charges.

Furthermore, performance agreements can be made with landlords on a local basis. This is possible only if the local authorities have a housing strategy. Performance agreements may be about energy or sustainability, for instance by attaching requirements to the energy labels to be achieved within a certain time span by making improvements to a property. Also, these agreements may be about affordability, for instance by setting a maximum rent for a certain number of properties. One final example is access to housing, which means housing associations have to reduce average waiting times.

2.3 Relevant parties in tenancy law

Party	Description
AW & ILT	Netherlands Authority for Housing Associations & Human Environment and Transport Inspectorate: regulator of housing associations under the Housing Act. Can issue instructions to approved organisations/associations (see definition)
Residents' committees	Group of jointly acting tenants living in a housing property, street, area, or who are otherwise associated.
Building Control Department	A municipal department that supervises building activities and compliance with national and municipal legislation. It can halt building work, impose fines and declare buildings uninhabitable.
Housing associations	The formal name is approved public housing organisations. They are minister-approved legal entities (associations or foundations) whose job it is to provide sufficient and suitable housing in an austere manner. The duties are described in the Housing Act. Housing associations are united in the umbrella organisation Aedes.
G4	The four largest cities in the Netherlands, namely Amsterdam, Rotterdam, The Hague, and Utrecht.
Rental Committee	An independent and impartial organisation, financed by the state and

	landlords, which makes binding decisions about compliance with relevant legislation. An appeal against a decision by the rent assessment committee can be lodged with the sub-district court, but not with higher authorities.
Tenant	A tenant is a person or a legal entity that undertakes to pay rent to the landlord in exchange for using a property or a part thereof.
Tenants' organisations	A group of tenants that is acknowledged by the landlord and that can issue expert advice about the rental policy, the allocation policy and the residents' policy. They also have a right to endorse changes to the service charges.
Rental teams	Usually, these are teams set up by local authorities, assisting tenants in the event of a dispute about renting property and giving legal advice.
Kences	Student housing expertise centre, a foundation that takes care of national representation and lobbying on behalf of student housing providers. The foundation's board consists of student housing providers (approved organisations). Based in Utrecht, it publishes the yearly National Student Housing Monitor based on studies by ABF Research.

Kennissteden (knowledge cities) network	All cities with a university or a university of applied sciences.
LAS parties	Parties that take part in the National Student Housing Action Plan (which started in 2012), in which Kences, Vastgoed Belang, Kennissteden, the Dutch Student Union and the Minister of the Interior and Kingdom Relations make agreements in order to tackle the student housing shortage.
Dutch Student Union (LSVb)	The Dutch Student Union looks after students' interests. Housing is one of the specific subjects which the Dutch Student Union deals with by means of websites such as https://dutchstudentunion.nl/rentcheck/. It is based in Utrecht.
Partners in the performance agreements	Local authorities that have an adopted housing strategy can make performance agreements with landlords and tenant representatives. These agreements may be related to the number of regulated dwellings or dwellings below a certain price level, but also to investments in living conditions or sustainability.
Central government	Among other things, this includes the Ministry of the Interior and Kingdom Relations, which is responsible for the national housing and accommodation policy.

Approved organisations	See housing associations.
Vastgoed Belang	Vastgoed Belang looks after the interests of private landlords.
Vereniging Eigen Huis	The Association of (Prospective) Homeowners, which looks after the interests of homeowners. It is based in Amersfoort.
Landlord	The landlord is a person or a legal entity that allows others to use the property or a part thereof for consideration (usually in the form of rent) in the manner agreed on with the tenant in the tenancy contract.
Housing region	A regional function of collaborating local authorities who draw up the regional housing regulations.

3. Different types of tenants and contracts

Is one of your friends moving in with you? This chapter deals with the rights of that friend and which (temporary) contracts you can choose from.

3.1 Differences between main tenant and (contractual) co-tenant

The person or persons who signed the contract with the landlord is or are the main tenant(s). It is also possible for someone to become a co-tenant, for instance in the case of a registered partnership, marriage or another form of long-term joint household.

What is a long-term joint household?
The house must have served as the main residence of both persons (although it can be more than two persons) for at least two years, those persons must run a joint household, and their joint income must be sufficient to pay the rent. The onus is on the tenant to prove that a long-term joint

You can become a co-tenant in two ways, namely by law and contractually. The regulation under Sections 7:266-268 of the Dutch Civil Code about co-tenancy and continuation of the tenancy contract offers protection to those with whom the tenant of the property lives but who are not contractual tenants. The first section, for instance, does so for the spouse or registered partner of the tenant (the statutory co-tenant). If the tenancy contract ends for the main tenant, the co-tenant becomes the (main) tenant.

The advantage of co-tenancy compared to co-occupancy is the legal position it gives you. A statutory co-tenant will continue the tenancy contract after the death or departure of the tenant. This is more complicated in the case of contractual co-tenancy, as the possibility to continue depends on the content of the tenancy contract and relevant circumstances. Therefore, a co-tenant has more responsibilities than a co-occupier. A co-tenant, for instance, is liable for any rent arrears of the main tenant and any modifications that were made to the property.

In principle, a co-occupier has no contract. If there is a contract, the parties to the contract can be a co-tenant, a (legal or illegal) sub-tenant, or a main tenant.

However, other household members, such as a partner who moves in with the tenant, are not automatically co-tenants and certainly not main tenants. In order to secure contractual co-tenancy, the new household member has to submit a request to the landlord or the court. The condition is that it concerns a long-term joint household.[2]

In the past, the Supreme Court of the Netherlands passed a ruling in the Dekker/Petronella case that amplified the legal definition of the concept of 'long-term joint household'.[3] A number of years later, the Supreme Court's ruling in the Boonacker/Neve case[4] said that after ending a joint household (for instance following death or

[2] Section 7:267(3) and Section 268(3) of the Dutch Civil Code
[3] Supreme Court of the Netherlands, 10 October 1980, NJ 1981/132
[4] Supreme Court of the Netherlands, 21 February 1986, NJ 1986/383

the end of the relationship), the parties do not necessarily have to focus on transferring the tenancy contract.

In August 2015, however, the Supreme Court of the Netherlands passed a very different ruling in the Libra case.[5] The Libra case concerned a relationship that had been ended, whereby it was not until five months after the main tenant had moved out that a request was made for the tenancy contract to be transferred to the main tenant's ex-partner. The court of appeal and the Supreme Court of the Netherlands ruled that the parties had not acted fast enough by waiting five months before they asked for the tenancy contract to be transferred to the main tenant's ex-partner. Despite the fact that the law does not require ex-partners to take immediate legal and administrative steps in such cases, the ruling in the Libra case sets a reasonable term for the transfer of a tenancy contract. In the above case, the Supreme Court of the Netherlands did not consider a five-month period reasonable.

3.1.1 Co-occupier

A household member who is not part of a long-term joint household and to whom the tenant is not married or with whom he has no registered partnership, is a co-occupier. This may concern a partner without there being any statutory co-tenancy, but it may also concern a child of the main occupier. A co-occupier has no statutory rights towards the landlord.

Does that mean students can let a co-occupier stay in their room? In principle, the letting of a non-self-contained dwelling can cover several rooms, which means that it is possible for multiple occupiers to be accommodated in these rooms. This is subject to

[5] ECLI:NL:HR:2015:2193

the condition that the letting of this property in the form of multiple rooms is documented in a single contract with a single tenant. The result of this is that the occupiers, with the exception of the main tenant, cannot invoke tenant protection. After all, a co-occupier who does not have a contract is neither a tenant nor a co-tenant. The basic principle for student rooms is that a tenant is permitted to let other persons stay there, unless this is restricted by the tenancy contract. For instance, tenancy contracts often contain a clause that the rented property cannot serve as the main residence for any persons other than the tenant. In addition, the number of persons that can stay at the property may be restricted with a view to (fire) safety.

3.1.2 Subletting (Sections 7:221 and 7:244 OF THE DUTCH CIVIL CODE)

What exactly is the difference between Sections 7:221 and 7:244? Is it the difference between self-contained and non-self-contained dwellings? This difference forms the core of the structure of the law; Section 7:221 of the Dutch Civil Code refers to general tenancy law, with Section 7:244 of the Dutch Civil Code being the specification. The keyword is 'rented property' (general tenancy law), while Section 7:244 of the Dutch Civil Code makes reference to 'rented residential accommodation'. This section covers the lodging regulation, for instance.

Section 7:221 of the Dutch Civil Code:

b. The tenant has the right to allow another person to use all or part of the rented property unless he had to assume that the landlord will have reasonable objections to allowing that other person to use the rented property.

Section 7:244 of the Dutch Civil Code:

c. In derogation of Section 221, the tenant of a residential accommodation does not have the right to allow another person to use all or part of the rented property. The tenant of a self-contained dwelling who uses that property as his main residence, however, is permitted to allow another person to use part of that.

Subletting part of a self-contained dwelling is, in principle, permitted unless the landlord has reasonable objections to it. We should note that many contracts stipulate that subletting is not permitted without the landlord's consent. In that case, consent can be secured only by submitting a request to the landlord. If the landlord does not agree, he has to raise a (reasonable) objection. If the contract does not prohibit subletting and part of a self-

contained dwelling is sublet, which is later objected to by the landlord, the burden of proof lies with the landlord. He has to demonstrate that the tenant should have known that the landlord had a reasonable objection.
Bear in mind that when no consent for subletting is given in the contract and the rented property is sublet, the tenant will be liable immediately and it may result in both the termination and recovery of the rent that was paid to the tenant by the sub-tenant, as this is regarded an example of poor tenant conduct (Section 7:213 of the Dutch Civil Code)

3.2 Tenant groups: the Tenants and Landlords (Consultation) Act

The aim of the Policy Document on Housing was to create equality between tenants and landlords. Before the Policy Document on Housing came into effect in 1995, annual consultations were regulated only via the Subsidised Rented Sector (Management) Decree. If no annual consultations were held, this could be reported to the local authorities. However, one can imagine such things were not reported. Therefore, a committee of representatives of tenants and landlords was set up, with the aim of achieving changes to consultation regulations by means of a detailed proposal.

The Tenants and Landlords Committee published its report in 1993.[6] However, their recommendations did not extend beyond tightening the process requirements for including tenants in policy changes.

[6] In its final report, the Tenants and Landlords Committee wrote, among other things, that they [the tenants] "are dependent on the landlord's goodwill when it comes to a realistic influence on the landlord's management practices and policy".

While the consultations between tenants and landlords in the public debate are often about rent policy, these consultations serve as an important monitor of the quality of the housing stock, living conditions and tenant communication. The Tenants and Landlords (Consultation) Act was adopted in a period of privatisation and deregulation of what were primarily former municipal housing associations that inevitably also required a legislation on the legal position of tenants.

3.2.1 Tenant groups

If a landlord has at least 25 residential units, tenants are automatically united in a group, or they have the possibility to unite in a group,. Tenants may be united in a tenants' organisation (a legal entity) that holds consultations with the landlord about (changes to) the rental policy. On a lower level, it is possible to set up a representation in a residents' committee. This is a committee that looks after the interests of the tenants of a residential complex that forms a unit, for instance due to proximity or from an administrative, structural or financial point of view (Section 1(1)(c) of the Tenants and Landlords (Consultation) Act). A residents' committee has fewer rights than a tenants' organisation. The term 'tenants' has the same meaning as that in the Housing Act and the Subsidised Rented Sector (Management) Decree, and it also covers co-tenants, (legal) sub-tenants and lodgers.

3.2.2 The rights of tenant groups

The existing policy provides for the right to be informed, enabling the tenants' organisation or the residents' committee to request access to the policy if this policy may be of significant interest to tenants or if it has a direct influence on the homes, residential complexes, or the living environment.[7] This also applies to the right to put items on the agenda and the right to attend meetings. The right to be informed means the landlord has obligations with

[7] For the full list of all forms of policy that are subject to the right to be informed, see Section 2, subsection 2 of the Tenants and Landlords (Consultation) Act.

regard to policy changes. The landlord has to actively notify the tenants' organisation or the residents' committee of his intentions to make reasoned policy changes. He is also obliged to ask for advice. This advice has to be requested in good time so that it can still have a significant influence on the decision to be made. The tenants' organisation and the residents' committee may also issue unsolicited advice. This applies to anything subject to the right to be informed, as well as other subjects that may be of interest to tenants.

The landlord cannot simply ignore advice issued by a tenants' representation. If the landlord does not want to follow advice, he has to confer with the tenants' council. Any decision that deviates from the advice has to be reported to the tenants' council in writing, also stating the reasons for the deviation.

And finally, there is the right of consent, which applies to changes to the service charges policy. These changes cannot be made until the tenants' organisation has agreed to them (in principle, the residents' committee does not have a right of consent).

3.2.3 Facilitating the tenants' organisation

The landlord has to facilitate the tenants' organisation. He can do so by submitting an annual budget for the internal organisation beforehand or documentary evidence such as receipts and invoices whenever he incurs costs. The law does not stipulate a fee for residents' committees. This is often regulated by means of a collaboration agreement that is concluded with the tenants' organisation for the representation of all tenants. This agreement documents the (financial) facilities.

The 2015 Housing Act also stipulates that the tenants' organisation can hire experts if they need assistance. Furthermore, the landlord has to reimburse three days of training per year. The Housing Act also contains the obligation that the tenant has to be involved as an equal partner in the performance agreements between the tenant, the local authorities, and the landlord.

The disputes committee is the competent body to make decisions about disputes between the tenants' organisation and the landlord. More about this in paragraph 7.2.

3.3 Open-ended contracts

The majority of tenancy contracts in the Netherlands are open-ended contracts, which means they do not stipulate any date on which the tenancy contract ends. What they often do contain is the minimum term of a tenancy contract. In principle, the tenant and the landlord cannot terminate the contract early if a minimum term has been stipulated. The landlord can only terminate the contract if the tenant agrees, or by submitting a well-reasoned request to the court explaining on which ground of Section 7:274 of the Dutch Civil Code the termination is based. This gives the tenant a large degree of housing security in the form of tenant protection. The tenant can terminate the contract by observing the notice period specified in the contract or by sticking to the same period as the payment term. According to the law, a tenant is subject to a maximum notice period of three months, but it can never be more than the payment term.[8]

When the landlord needs the dwelling for a compelling reason and requests to terminate the rent, he has to offer alternative accommodation or demonstrate that alternative accommodation is available. During the procedure, the tenant can also ask for reimbursement of removal expenses or reimbursement of refurbishment expenses in the case of demolition, renovation (Section 7:220(5)(6) of the Dutch Civil Code), when the contract is terminated because the landlord needs the dwelling for compelling reasons or when the landlord ceases to let the dwelling in order to comply with the zoning plan (Section 7:275 of the Dutch Civil Code).

[8] If a tenant pays rent on a monthly basis, the notice period is one month. If a tenant pays his rent every six months, the notice period is three months, because the notice period cannot exceed that period.

3.4 Temporary contracts and target group contracts

Since July 2016, the law offers landlords the opportunity to offer more types of temporary contracts. Before, the option 'short term by nature' was popular for short-stay contracts of less than a year. Thanks to the Explanatory Memorandum to this legislative change and the comments made by the Minister for Housing and the Central Government Sector in the House of Representatives, we now have more clarity about the scope of the various types of contracts. This paragraph discusses the options by type and section, sorted according to relevance. Also, Appendix I contains an overview of the various types. Officially, the landlord can always decide to draw up a temporary contract, but under Section 7:230, in conjunction with Section 7:271(1) of the Dutch Civil Code, a temporary contract will be converted into an open-ended contract, unless the end of the tenancy contract was explicitly announced. If a landlord does not want a temporary contract to be converted into an open-ended contract, he has to give the tenant written notice of termination no more than three months and at least one month before the end of the tenancy contract. If he does not, the tenancy contract is automatically renewed for an indefinite period of time.

3.4.1 Temporary contracts

Temporary contract for non-self-contained dwelling (Section 7:274(1)(b)(c) of the Dutch Civil Code)

In 2016, the temporary contract for non-self-contained dwellings was added to the possibilities. This contract can be entered into for any period, subject to a maximum of five years.

The tenant is entitled to terminate the contract early, in parallel with the payment term (a minimum of one month, a maximum of three). The landlord cannot terminate the contract before the end of the term and he has to notify the tenant in writing of expiry of the contract. This written notification must be sent within no more than three months and at least one month before the agreed expiry date of the tenancy contract. If no such notice is given, the contract is converted into an open-ended contract in accordance

with Section 7:230 in conjunction with Section 7:271(1) of the Dutch Civil Code. The contract can also be converted into an open-ended contract when the landlord and the tenant agree that the latter can continue to live in the property. When the landlord gives notice of expiry of the contract on account of the contract ending by operation of law, no alternative accommodation has to be offered.

Temporary contract for self-contained dwelling (Section 7:271(1) of the Dutch Civil Code)

Along with the temporary contract for non-self-contained dwellings mentioned above, a temporary contract for self-contained dwellings was also enshrined in law. In this case, contracts can be concluded for a maximum of two years. Approved organisations (associations) are subject to a number of restrictions to be able to use this type of contract, which explicitly do not apply to commercial lessors. When the contract is entered into, the tenant needs to have a temporary job, he has to study temporarily, have been given emergency accommodation, have a temporary tenant with sheltered housing supervision, have a second or final aleatory contract, or he has to be in need of temporary accommodation on account of demolition or renovation.

The tenant is entitled to terminate the contract early, in parallel with the payment term (a minimum of one month, a maximum of three). The landlord cannot terminate the contract before the end of the term, and he has to notify the tenant in writing of expiry of the contract. This written notification must be sent within no more than three months and at least one month before the agreed expiry date of the tenancy contract. If such notice is not given, the contract is converted into an open-ended contract in accordance with Section 7:230 in conjunction with Section 7:271(1) of the Dutch Civil Code. The contract can also be converted into an open-ended contract when the landlord and the tenant agree that the latter can continue to live in the property. When the landlord gives notice of expiry of the contract on account of the contract ending by operation of law, no alternative accommodation has to be offered.

Short-term by nature (short stay) (Section 7:232(2) of the Dutch Civil Code)

By adding multiple options for temporary contracts in 2016, additional legal protection was built into the law for tenants with a temporary term of stay. Before the legislator added this option, the landlord often used the line '***short-term by nature***' when letting property to expats, international students, and also regular tenants, for instance, as a result of which they enjoyed little to no tenant protection. Thanks to the Explanatory Memorandum and the comments made by the Minister for Housing and the Central Government Sector in the House of Representatives, it is now clear that application of Section 7:232(2) of the Dutch Civil Code is reserved only to holiday homes or temporary accommodation, i.e. short-term rentals. 'These are situations where it is plainly obvious that relying on tenant protection would not be reasonable.'[9] The contracts associated with these types of holiday homes are also referred to as short-stay contracts. The contract must state that it concerns a letting that is 'short-term by nature'. Whether a tenancy contract must be qualified as short-term by nature depends on the characteristics of the property, not the duration of the contract.[10] However, due to the lack of tenancy protection, the application of these contracts to all homes is far from desirable, with the exception of holiday homes or temporary alternative accommodation.

In principle, the contract cannot be terminated by either the tenant or the landlord during the agreed period, unless otherwise

[9] Quotation from the Explanatory Memorandum of the Property Rental Market (Measures to Facilitate Movement) Act, page 2.

[10] The qualification of the rented object depends on whether the property is furnished in such a way that it is intended for short-term letting. The qualification, therefore, does not focus on the rent period but on the nature of the accommodation. For example, the letting of a holiday home is short-term by nature on account of the way in which it is furnished. It is located in a holiday park with units intended for holiday purposes only. In addition, the service is also entirely focused on guests who come here for recreational purposes.

specified in the contract. A contract that does not stipulate a term, i.e. an open-ended contract, can be terminated by either party, subject to a notice period of one month. In this case, the tenant has little or no rental protection. The contract ends after the contract period or (in case of an open-ended contract) after giving notice of termination. It is possible to have tenancy contracts for standard properties which are 'short-term by nature' assessed by the rent assessment committee by initiating proceedings through that body. In that case, the rent assessment committee can conclude that it concerns a different (temporary) type of contract.

Contract under the Vacant Property Act (Sections 14 and 15 of the Vacant Property Act)

The local authority can issue a permit for letting under the Vacant Property Act in the event of owner-occupied or rental homes for sale, rental homes that are going to be demolished or renovated or units in a building awaiting a final designated use. In order to obtain the permit, the property must never have been occupied, have been vacant for twelve months or have been occupied by the owner in the last twelve months and not have been let for more than three years in the past decade (not applicable to rental homes designated to be demolished).

In this case, the contract is subject to specific rules: it must concern a tenancy contract that is linked to the duration of the permit (which term must be stated in the tenancy contract). If it does not concern an owner-occupied home, the permit must also state the maximum rent in accordance with the points system used to determine if a dwelling falls in or outside the regulated category and to determine the price of those that fall within that category. The contract term for an owner-occupied home for sale is at least six months and for rental homes at least three. The maximum term of the contract is also defined in the law, which is five years for

owner-occupied and rental homes for sale, seven years for a rental home awaiting demolition or renovation and ten years as a maximum contract term for accommodation in other buildings.

Both the tenant and landlord can terminate early after six months, unless a different term has been agreed in the contract. The tenant is subject to a notice period of one month, whereas the landlord must give notice at least three months in advance (or two months if the rental home is for sale). On a closing note, the contract ends automatically when the permit expires.

Lodging regulation (Section 7:232(3) and Section 274(1)(f) of the Dutch Civil Code)

A lodging regulation has various detailed rules and regulations for each city or urban region. The minimum rights and obligations for this regulation are, however, laid down in national legislation. The tenant must rent one (or more) rooms in the home where the landlord lives. In addition, facilities such as the kitchen, bathroom and/or toilet must be shared. The landlord may let a maximum of two rooms in one house, subject to a maximum of two people. The contract must state which room or rooms the tenant is renting and what rights of use the tenant has in terms of the facilities. There are no legal restrictions on the duration of the contract. However, during the first nine months, the tenant does not enjoy any form of tenancy protection, as this is the trial period. During this period, the landlord can terminate the contract without stating the reasons. After the expiry of the trial period, the tenant enjoys the usual tenancy protection.

The tenant must observe a notice period of one month (both within and outside the trial period), whereas the landlord is bound by the statutory notice period (a minimum of three months, a maximum of six).

3.4.2 Target group contracts

For certain target groups, the legislator, partly with a view to (recent) case law, broadened the possibilities for terminating tenancy contracts. The idea behind this is that these properties are often fitted out in a certain way. For example, homes for large families are often more spacious and have more bedrooms. In addition, it is sometimes desirable to keep properties available for a specific target group, such as students. If the tenant no longer meets the characteristics of the relevant target group, the landlord can terminate the tenancy contract. There are currently six target groups for which the possibility of termination has been broadened: (a) senior citizens in adapted accommodation, (b) people with a disability or an illness, a property intended for (c) young people, (d) students, (e) PhD students or (f) large families.

Adapted accommodation (Section 7:274(a) and 7:274(b) of the Dutch Civil Code)

The article on adapted accommodation was added to the aforementioned legislative change from 2016 to make it possible for landlords to give priority to senior citizens or residents with a disability or an illness, provided the accommodation has been adapted accordingly. If a tenant does not need adapted accommodation but does live in such a property, the landlord may terminate the tenancy contract. With regard to senior citizen homes, the house or residential complex must be purpose-built and geared towards occupancy by the elderly. With regard to allocating a home to a disabled person, the property must be purpose-built and intended for occupancy by a disabled person, or specific modifications must have been made to the home after construction in accordance with the legal regulations.

The notice period applicable to the tenant is equal to the payment term (a minimum of one month, a maximum of three). The landlord can terminate the contract if the property is needed for another

disabled person, if none of the residents is disabled (anymore) ***and*** the tenant can obtain alternative accommodation ('needing the dwelling for a compelling reason'). The notice period depends on the number of years that the tenant has lived in the property (a minimum of three months and a maximum of six). The landlord can also terminate the tenancy contract on the basis of one of the six grounds for termination of Section 7:274(1) of the Dutch Civil Code.

Contract for young people (Section 7:274(c) of the Dutch Civil Code)

Thanks to Schouten's private member bill, properties can since 2016 be offered specifically to young people (i.e. people aged under 28 upon commencement of the tenancy contract). The tenancy contract must state that the property is intended for young people. The landlord can only rely on the additional ground for termination five years after the commencement date of the tenancy contract. However, before these five years have elapsed, the tenant can agree with the landlord on a two-year extension to this period. The tenant can terminate the contract early, with due observance of a notice period that is equal to the payment term, subject to a maximum of three months. The landlord must terminate the contract after five years or, in the case of an extension, after seven, with due observance of a notice period of at least six months.

Student housing contract (Section 7:274(d) and 7:274(e) of the Dutch Civil Code)

The article setting out the student housing contract was added to tenancy law in 2006. Since 2016, it has been possible to offer this type of contract to PhD students as well. This concerns an expansion to the application of 'the landlord needing the dwelling for a compelling reason' as grounds for termination. The student housing contract is an open-ended contract and authorises the landlord to terminate the tenancy as soon as the tenant is no longer a (PhD) student. This condition must be stated in the contract. A landlord is entitled to request proof of enrolment or PhD contract. He may do so upon commencement of the tenancy and each year thereafter as long as the student lives in the property. This way, the student or PhD student demonstrates that he is still studying or doing his PhD and as such is entitled to the property or room. [11]

The tenant can terminate early, with due observance of a notice period that is equal to the payment term, subject to a maximum of

In some university towns, the student housing contract was already in use before it was enshrined in law. Some student housing providers have suspended contracts with tenants indefinitely to force them to sign a student housing contract instead. These contracts date from before the introduction of the student housing contract that allows reliance on needing the dwelling for a compelling reason as grounds for termination.

[11] The tenant must comply with this request within three months. If he fails to do so, the landlord may proceed to terminate the contract.

three months. The landlord can terminate the tenancy contract with due observance of a notice period of at least three and a maximum of six months, depending on the duration of the stay.[12] Some landlords opt to apply a notice period of one year. The landlord does not have to offer alternative accommodation if he can demonstrate that the tenant has made insufficient effort to find alternative accommodation himself.[13] The landlord can also terminate the tenancy contract on the basis of one of the six grounds for termination of Section 7:274(1) of the Dutch Civil Code.

Contract for large families (Section 7:274(f) of the Dutch Civil Code)

The Property Rental Market (Measures to Facilitate Movement) Act further stipulates a possibility for landlords to offer a tenancy contract aimed at large families. Large families are taken to mean a household consisting of at least eight people upon commencement of the tenancy. The tenant, at the written request of the landlord, must demonstrate through an extract from the Personal Records Database (BRP) that at least five people belonging to his family live in the property. The landlord can make this request annually. The landlord can terminate the contract as soon as the household consists of fewer than five people.

The tenant can terminate the agreement early, subject to a notice period that is equal to the payment term (a minimum of one month, a maximum of three months). If no evidence is produced after the written request is made, the landlord can terminate the tenancy contract on this ground, subject to a notice period of at

[12] The notice period applicable to the landlord is three months, to be increased by one month for each year that the tenant has rented the property, subject to a maximum of six months.

[13] In practice, landlords are not obliged to offer alternative accommodation or to demonstrate that alternative accommodation is available.

least three and a maximum of six months (depending on the duration of the stay). In that case, suitable alternative accommodation must be offered. The term 'suitable' does not mean a right to accommodation that is exactly the same. This term mostly refers to accommodation geared to income and the number of family members.[14] The landlord can also terminate the tenancy contract on the basis of one of the six grounds for termination of Section 7:274(1) of the Dutch Civil Code.

3.5 Administrative costs

In principle, the landlord may not charge any administrative costs or letting costs when entering into a contract. For example, no costs may be charged that are primarily incurred in the interest of the landlord, such as for a viewing of the property, drawing up the tenancy contract, making the property move-in ready, or applying for a housing permit (Section 7:264(1) of the Dutch Civil Code). The landlord may only charge costs that are incurred in the interest of the tenant, such as for nameplates. This was different in the past, but it was 'repaired' in July 2016 after the Supreme Court of the Netherlands ruled that an amount of up to €30 for administrative costs was considered reasonable.[15]

3.6 Brokerage costs

Since the 1990s, an estate agent or a letting or brokerage agency is, in principle, no longer allowed to charge the tenant brokerage costs for self-contained dwellings. The Supreme Court of the Netherlands confirmed this in a ruling in 2015[16] (Section 7:417(4) of the Dutch Civil Code). With the legislative change that came into effect on 1 July 2016, this is no longer permitted for non-self-

[14] Amsterdam court of appeal, 13 May 2014, ECLI:NL:GHAMS:2014:1871
[15] ECLI:NL:HR:2012:BV1767: Ymere/Nellestein ruling
[16] ECLI:NL:PHR:2015:1713 and ECLI:NL:HR:2015:3099

contained dwellings (rooms) either. A broker may only charge a fee if he has been asked to find a room or property that is not part of his own property portfolio. In that case, it concerns an instruction to search for a property. If the broker has already been asked by the landlord to offer a property on his behalf, brokerage costs will be payable only by the landlord.
If brokerage costs have nevertheless been paid, these can still be reclaimed afterwards. These costs can be reclaimed through the court up to three years after they were paid.

3.7 Deposit

When entering into the tenancy contract, the landlord can ask for a (security) deposit. Legal rulings have limited the deposit to an amount equal to a maximum of three months' rent. Neither the landlord nor the previous tenant is allowed to charge key money, as this would give one of the parties an unreasonable advantage.

Section 7:218(3) and Section 7:224(2) of the Dutch Civil Code elaborate on the damage to the rental home and the responsibility for damage. If no description is made of any existing damage to the rented property upon commencement of the tenancy, it is assumed that the property was made available free from damage. In this case, it is therefore not possible to rely on the property's 'original condition'. Therefore, in order to ensure that the deposit is returned in full, it is important to pay close attention to possible damage before commencement of the tenancy contract, for example to walls, doors, hinges and locks, plumbing, woodwork and, if applicable, furniture and fittings. The landlord must be able to demonstrate that the amount of deposit that he retains was necessary to return the property to its original state.

4. Rent

You have probably selected your current property or room based on its location, but also on the rent. This basic or all-in rental price is often far too high, and you can have it reviewed by the rent assessment committee. Section 7:237 of the Dutch Civil Code defines the rental price as follows: 'all the obligations assumed by the tenant towards the landlord as part of or in connection with the rent'. The vast majority of conflicts in tenancy law concern the level of the rent in relation to the rented property. This chapter sets out the legal details of what the rent is made up of.

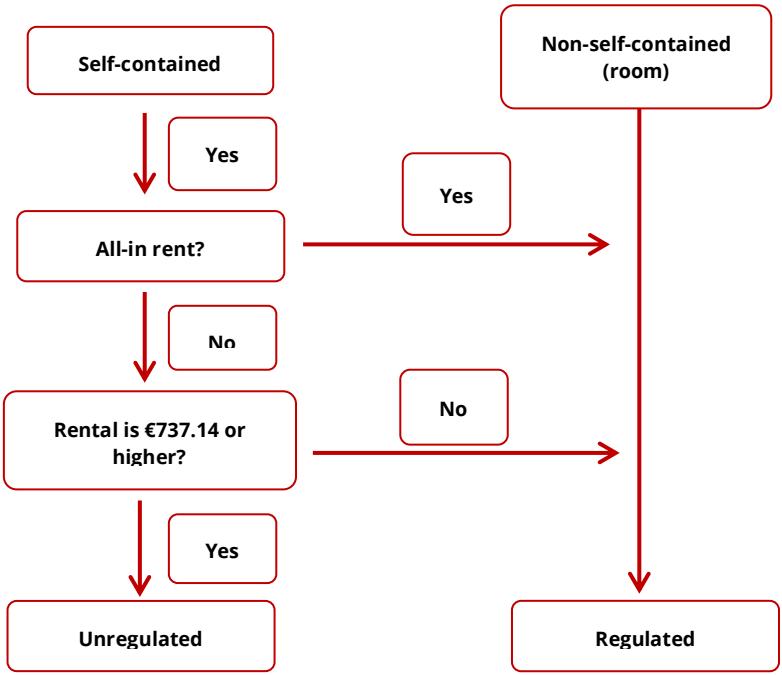
4.1 Regulated or unregulated

Under Dutch law, private parties are permitted to enter into agreements. In principle, contractual freedom applies in the Netherlands, which basically means that everyone can decide for themselves what they want to agree on and with whom. One such example is a tenancy contract between a tenant and a landlord.

The **basic rent** is supposed to be in relation to the quality and surface area of the property. This rental price only includes the actual rent. Additional costs such as gas, water, electricity, or administrative costs are classed as service charges. When it comes to rent, it is important to distinguish between basic rent and service charges. Each year, the landlord must give the tenant a statement of the service charges and deduct these from the advance, so that the tenant knows what the actual costs were.

Paragraph 2.1 describes why the dependent position of the tenant in relation to the landlord was a reason for the legislator to make the legislative text ***mandatory*** in some cases. In the case of regulated tenancy contracts, the basic rent is linked to a maximum

that can be determined by means of the housing evaluation system (WWS), which is a points system used to determine if a dwelling falls in or outside the regulated category and to determine the price of those that fall within that category. The rent assessment committee has been established as an adjudicator for rental disputes in the event of regulated homes. Tenants and landlords can, for example, turn to the rent assessment committee for a binding decision on the maximum rent, the amount of the service charges and/or on whether there are any defects in or on the property. The rent assessment committee has so-called Policy Books that provide further explanation of the application of the WWS points system and regulations with respect to service charges and defects.



Flow chart: Regulated or unregulated? (for tenancy contracts after 1 January 2020)

4.1.1 Regulated

The WWS points system looks at the surface area of the house and its facilities, among other things. The presence of facilities such as a shower, toilet, bath, kitchen, central heating, windows that can be opened, or outside space all count towards the overall rating of the dwelling. The points system applicable to self-contained dwellings differs from that applicable to non-self-contained dwellings. The points system for non-self-contained dwellings takes greater account of the number of people with whom facilities are shared. For more (up-to-date) information about the points system, see the Policy Book of the rent assessment committee.

All articles in ***subsection 2 Rents and other reimbursements*** of Sections 7:246 to 7:265 of the Dutch Civil Code apply to properties with rents below the rent-control ceiling.

When is a property classed as regulated stock?

	Regulated	*Unregulated*
Self-contained dwelling	Initial rent below €737.14	Initial rent above €737.14
Self-contained dwelling with all-in rent	Regulated	n/a
Non-self-contained dwelling	Regulated	n/a

4.1.2 Unregulated

In Section 7:247 of the Dutch Civil Code and Section 3(2) of the Housing Rents (Implementation) Act, properties are distinguished on the basis of a rent-control ceiling. A tenancy contract is considered regulated if the monthly rent is below the rent-control ceiling upon commencement of the contract. In 2020, the rent-control ceiling was €737.14 per month. Since the introduction of the Property Rental Market (Measures to Facilitate Movement) Act in 2015, there has been an extended review period for temporary contracts. In the case of self-contained dwellings, Section 7:249 of the Dutch Civil Code offers the possibility of having the rent reviewed by the rent assessment committee for a maximum of six months after the end of the temporary tenancy contract. In the

case of non-self-contained dwellings and a tenancy contract with a maximum term of two years, a request based on Section 7:249 of the Dutch Civil Code can be submitted six months after expiry of the contract. If the initial rent is below the rent-control ceiling applicable at the start of the contract, the property is regulated. In that case, the tenant is eligible for housing allowance, provided requirements in terms of maximum income and savings are met. If the initial rental price exceeds the rent-control ceiling[17], the property is not classed as regulated stock. If the tenancy contract is unregulated, some articles aimed to protect the dependent position of the tenant still apply:

Section 7:249 of the Dutch Civil Code:
The rent may be reviewed by the tenant and the rent assessment committee against the housing evaluation system up to six months after commencement of the contract (note that temporary contracts of two years or less may still be assessed after expiry of the [initial] contract).

Section 7:251 of the Dutch Civil Code:
The rent may only be increased once every twelve months.

Section 7:259 of the Dutch Civil Code:
Service charges for utilities and other costs may be charged and a statement of service charges must be provided no later than six months after the end of the calendar year/service charges year.

Section 7:261 of the Dutch Civil Code:
The amount of the advance may only be increased once a year, unless additional services are provided.

Section 7:264 of the Dutch Civil Code:
Contract protection: if the contract represents a non-reasonable advantage for the tenant, landlord or a third party, the entire contract is invalid (void). This does not apply to the rent.

[17] This at the same time is the rent limit for housing allocation for adults aged over 23 in order to be eligible for housing allowance (2017 and 2018: €710.68).

In the event of rent increases under decontrolled contracts, only a limited number of rules apply compared to the number of rules applicable to regulated properties. The rent of decontrolled dwellings can be increased once every twelve months, as is the case for controlled dwellings. An interim rent increase on account of improvements to the dwelling is permitted. In the event of a rent increase, the points system and the resulting maximum price do not apply to the rent increase. Furthermore, the landlord is not obliged to adhere to set notice periods with regard to rent increases. If the tenant does not want to pay the rent increase, the landlord may terminate the tenancy contract.[18]

The tenancy contract may also include an indexation clause. This means that the tenant agrees to the annual rent increase when entering into the contract. The indexation clause can be a fixed percentage or a link to the inflation rate. If the rent increase is higher than the percentages in the contract, a written objection can be lodged with the landlord.

If no indexation clause is included in the contract, the landlord can only increase the rent by offering the tenant a new contract stipulating the higher rent (among other things). If the tenant does not agree to the new contract for the same property, the landlord may terminate the contract stating that reason. It will be up to the court to assess whether the offer for a new tenancy contract is reasonable. In the event of a reasonable offer, the court is authorised to terminate the tenancy contract. However, it is not all as bad as it sounds: practice shows that the court will first give the tenant the opportunity to accept the offer after all. If the court deems the offer unreasonable, the old tenancy contract (i.e. without the rent increase) remains in effect and the tenant may continue to live in the property.

[18] If the tenant does not agree in writing with the tenancy contract being terminated, the tenancy contract can only be terminated by the court.

4.2 Rent adjustment proceedings at the rent assessment committee

4.2.1 Review of the initial rent (Section 7:249 of the Dutch Civil Code)

The procedure for reviewing the initial rent sees the rent assessment committee assess the state of affairs on the commencement date of the tenancy contract. In doing so, the rent assessment committee is also authorised to officially divide an all-in rent and to issue a temporary discount on the rent on account of defects that existed upon commencement. Since the commencement date of the tenancy contract serves as the review date, a tenant does not have to send a proposal for a rent reduction or division and/or defect notification to the landlord for this procedure. After all, it is impossible to notify the landlord of any defects in or on the property prior to commencement of the tenancy contract. If the rent assessment committee rules as part of a review procedure, the ruling will take effect on the tenancy contract commencement date.

When requesting an initial rent review, the committee completes four steps: (i) it determines whether the request has been submitted in time, (ii) whether it concerns an all-in rent and whether this all-in rent should be officially divided, (iii) whether the initial rent is reasonable, and finally (iv) it determines whether there are serious defects that disturb the quiet enjoyment of the rented property for which it can order a temporary discount on the rent.

Is the request admissible (was the request submitted in time)?

The initial rent can be reviewed up to six months after commencement of the tenancy contract by submitting a request to the rent assessment committee, whereby any overpaid rent can be reclaimed for the entire period. If the request is submitted after the tenancy contract has been in force for six months, any overpaid rent can only be reclaimed from the moment the request was made. Since the introduction of the Property Rental Market

(Measures to Facilitate Movement) Act in 2015, there has been an extended review period for temporary contracts. In the case of self-contained dwellings, the law states that the rent can still be reviewed up to six months after expiry of the temporary tenancy contract. In the case of non-self-contained dwellings and a tenancy contract with a maximum term of two years, a request under Section 7:249 of the Dutch Civil Code can be submitted six months after the end of the rent. [19]

Does it concern an all-in rent?

If the tenancy contract does not distinguish between the basic rent and the advance payment for gas, water and electricity or other service charges, the rent is deemed to be all-in. An all-in rent is not allowed, because it must be clear to a tenant which part covers the basic rent and which part the advance on service charges. If the amount of the advance is unknown, it is impossible for the landlord to fulfil his obligation towards his tenant(s) under Section 7:259(2) of the Dutch Civil Code, which is to send an annual statement of service charges.

Based on Section 17(a) of the Housing Rents (Implementation) Act, the committee can officially divide the rent into a basic rent and the

[19] There is a difference of opinion among tenancy law experts about the interpretation of Section 7:249(2) of the Dutch Civil Code, because the legislative text reads: 'In derogation of subsection 1, the tenant can request the rent assessment committee to rule on the reasonableness of the agreed rent for a period of up to six months after the initial tenancy contract was entered into by him with regard to that property for the duration of two years or less as referred to in Section 271(1)(second sentence).' According to some, this implies that the extended review period only applies to self-contained dwellings. Others state that the review period is a maximum of 2.5 years for both self-contained and non-self-contained dwellings. There is also a group that claims that it is an editorial error and that the initial rent of non-self-contained dwellings can also be reviewed by the rent assessment committee six months after the end. In the case of the last interpretation, the maximum period for starting a review procedure for a non-self-contained dwelling could be 5.5 years.

advance towards the service charges.[20] In that case, the committee will set the basic rent at 55% of the rent and the advance on service charges at 25% of the agreed price. Subsequently, it is checked whether this official rent is reasonable.

If no all-in rent has been agreed, the committee will immediately proceed to assess the reasonableness of the initial rent.

Is the initial rent reasonable?

The committee reviews the reasonableness of the agreed rent based on the WWS points system. If the agreed rent is higher than the maximum that follows from the WWS points system (and this maximum does not exceed the rent-control ceiling), the initial rent is not considered reasonable and the committee will change (lower) the rent to a price in accordance with the WWS maximum. The adjusted (reduced) basic rent will then apply from the tenancy contract commencement date and the tenancy contract is (still) classed as regulated stock. If the rent is below the maximum price returned by the WWS points system, the rent assessment committee will not lower the initial rent. If the maximum reasonable rent exceeds the rent-control ceiling (2020: €737.14), the rent is by definition reasonable, given that it concerns an unregulated tenancy contract.

If the new rent is below the housing allowance limit while this was not the case before, it is possible to still receive this allowance for the period starting from the tenancy commencement date applicable to the property. The condition for this is that an application must have been made for housing allowance within six months of concluding the agreement.

[20] In practice, the committee divides an all-in rent of its own motion.

Discount on initial rent due to defects (Section 2:257 of the Dutch Civil Code in conjunction with Section 12 of the Housing Rents (Implementation) Act)

Defects in or on the rental property at the start of the tenancy contract, such as a leak, poor ventilation or structural defects that cause mould or noise nuisance from technical installations part of the building, may be reason for the rent assessment committee to apply a discount on the initial rent. The rent assessment committee can only order a rent reduction for serious defects that disturb the quiet enjoyment of the rented property. The defect(s) and corresponding lower rent are set out in the ruling. The ruling means that the tenant pays a lower rent for as long as the landlord has not remedied the defects. This discount starts from the date the contract was entered into. Once the defects have been remedied, the full initial rent may be charged again from the first day following the month in which the repairs were made. If the tenant and the landlord are unable to agree on whether the defects have been remedied, the rent assessment committee can rule on this.

4.2.2 Annual rent increase (Sections 7:250 to 7:252 of the Dutch Civil Code)

The rent can be increased once a year, at the request of the landlord. This is subject to a couple of rules. For example, the rent may only be increased once in the first twelve months after commencement of the tenancy. After that, the rent may only be increased once a year. Since an increase is to the detriment of the tenant, he must be given the opportunity to object. In addition, landlords of regulated dwellings are bound by a maximum percentage by which the rent may be increased. This percentage is determined in relation to the inflation rate of the previous year.

Each year, the minister sets the maximum rent increase percentage, with exceptions for certain groups. The income-related rent increase was introduced for tenants of self-contained

dwellings in the regulated segment in July 2013. The purpose of this measure is to combat housing situations in which the rent is too low in comparison to the tenant's income. For tenants who earn in excess of the income limit (2020: €43,574), the rent can be increased by a higher percentage.[21] The rent can be increased in either of the following ways (Section 7:248(1) of the Dutch Civil Code): (1) via a contractual provision (indexation) or (2) via the legal regulation of Sections 7:252, 7:252(a) and 7:253 of the Dutch Civil Code. Rent increases via a contractual provision may be by operation of law (i.e. without a proposed change) and, in the case of regulated housing, may not exceed the indexation maximum set by the ministry.

In the event of a rent increase on the basis of the statutory regulation, the landlord must submit a written request at least two months before the change takes effect, stating (1) the current rent, (2) the percentage or amount by which the rent will change, (3) the proposed rent, (4) the proposed date of change of the rent and finally (5) the manner and period in which the tenant can object to the proposal ***and*** what the consequences are if the tenant does not object. If requirements (2), (4) or (5) have not been met or if the proposed rent increase is made under two months before the commencement date, the rent increase will not take effect.

When the rent increase does take effect, different scenarios are possible: (1) the tenant does not object and pays the rent increase, (2) the tenant requests the rent assessment committee to review the reasonableness of the proposal, (3) the tenant does not object,

[21] In 2020, the maximum 'normal' rent increase was 5.1% and the maximum rent increase for high incomes was 6.6%.

but does not pay the rent increase either, or (4) the tenant objects in writing to the intended effective date of the rent increase.

In the first scenario, the rent increase will take effect on the proposed date. After all, the tenant has not objected and will pay the rent increase. The second possibility is that the tenant himself initiates proceedings regarding the reasonableness of the rent increase with the rent assessment committee (Section 7:253(2) of the Dutch Civil Code). He can do this within four months if he (i) has not sent a notice of objection to the landlord, (ii) has not started paying the rent increase, and (iii) has received a reminder letter from the landlord sent by registered post. The tenant must have received this within three months after the proposed effective date of the rent increase.

In the third scenario, in which the tenant does not object but does not pay the rent increase either, the landlord must send a registered letter within three months after the proposed date for the increase, i.e. the reminder letter (Section 7:253(2)(b) of the Dutch Civil Code). If the tenant has not started proceedings through the rent assessment committee within four months of the proposed effective date of the rent increase, the tenant is deemed to have agreed to the proposed rent increase and effective date (Section 7:253 (3) of the Dutch Civil Code).

Fourth, the tenant can object to the rent increase in writing before the proposed effective date of the rent increase. In this case, the landlord can request the rent assessment committee to rule on the reasonableness of the proposal within six weeks of the date on which an objection was made (Section 7:253(1) of the Dutch Civil Code).

The rent assessment committee reviews whether the rent increase is reasonable. A rent increase is reasonable if it does not exceed the maximum rent increase percentage (Section 10(2) of the Housing Rents (Implementation) Act). A rent increase cannot take place as long as the tenant and the landlord have not reached an agreement on whether the defects on which the rent assessment committee or sub-district court has ruled have been remedied (Section 7:250(2) of the Dutch Civil Code). Apart from the annual rent increase, the landlord can submit a rent increase proposal after having made improvements to the dwelling.[22]

4.2.3 Reduction of the rent (Section 7:254 of the Dutch Civil Code)

A tenant can at any time submit a written proposal to lower the rent.[23] If the landlord does not agree with the reduction, the tenant can appeal to the rent assessment committee up to six weeks after the date on which the reduction should have taken effect. The committee will review whether the proposal for a reduction is reasonable.

A request to lower the rent following a previous income-related rent increase can be made on the basis of a reduction in household income. For example, if a tenant has started to earn less or a member of the household with an income is no longer living in the rented property, the tenant may fall into a lower income category, as a result of which he can have the income-related rent increase reversed.

[22] See paragraph 4.2.4.

[23] A template letter for proposing a rent reduction can be found on the website of the rent assessment committee.

4.2.4 Increase of the rent following additions to the property (Section 7:255 of the Dutch Civil Code)

A property is deemed to have been improved if facilities have been installed by the landlord during the rental period (Section 7:255(1)(b) of the Dutch Civil Code refers to alterations or additions), as a result of which the quality of the property (comfortable living conditions) is considered to have improved or if facilities have been installed to remove or reduce limitations experienced by a disabled person.[24] A property will not be deemed to have been improved if the quality improvement is achieved through the elimination of defects or like-for-like replacement of facilities (such as a kitchen) that were due to be replaced (Section 7:255(1)(b) of the Dutch Civil Code). This may involve the installation of a new kitchen or improvement of ventilation or insulation.

A landlord can propose a rent increase as a result of certain alterations and additions. If no agreement can be reached on the rent increase after the alteration has been made, both the tenant and the landlord can, within three months, ask the rent assessment committee to rule on the matter. The rent assessment committee will subsequently review whether the rent increase is reasonable. In practice, this review by the rent assessment committee consists in examining whether the rent increase is in proportion to the costs incurred by the landlord for the improvement of comfort. The costs for regular (major) maintenance are not included therein.

4.2.5 Diminished quiet enjoyment of the rented property due to a defect (Section 7:257 of the Dutch Civil Code)

Paragraph 4.2.1 discussed a discount on the initial rent on account of defects in the condition in which the property is made available, but such defects can, of course, also occur during the rent period. If so, the tenant can claim a temporary discount on the rent. From a legal viewpoint, the rent is discounted until the defect is

[24] Examples include alterations to doors and/or a lowered kitchen so that they can be used by people in a wheelchair or the installation of a stairlift.

remedied. In everyday language, this is referred to as a (temporary) rent reduction (due to maintenance defects), the term that is also used by the rent assessment committee. When the defect has been remedied, the discount no longer applies, and the tenant will have to pay the full rent again.

After the tenant has notified the landlord of a defect in writing[25], the landlord must remedy the defect within a reasonable period of time.[26] If the defect has not been remedied within six weeks of the notification, the tenant may request the rent assessment committee to order a reduction in the rent on the basis of a (maintenance) defect. It is important to note, however, that the rent assessment committee can only temporarily lower the rent if the defects seriously disturb the quiet enjoyment of the rented property or seriously impede the usability thereof.[27] The rent assessment committee can only order a temporary rent reduction that is backdated up to six months before the request was submitted. If the defect dates back more than six months before the request was submitted and the defect has been reported, it is not possible to order any rent reduction for that preceding period.

More information about defects and repairs can be found in paragraphs 5.1 and 5.2.

[25] A template letter for reporting defects can be found on the website of the rent assessment committee.

[26] The reasonable period depends on the nature of the defect. A shorter reasonable period applies to carrying out relatively simple repairs, compared to drastic interventions such as in the event of moisture penetration due to a structural defect. A request for rent reduction due to maintenance defects can only be submitted six weeks after reporting the defect.

[27] For details, see the rent assessment committee's Defects Book.

4.2.6 Dividing the all-in rent (Section 7:258 of the Dutch Civil Code)

If the tenancy contract does not distinguish between the basic rent and the advance payment for gas, water and electricity or other service charges, the rent is deemed to be all-in. An all-in rent is not allowed, because it must be clear to a tenant which part covers the basic rent and which part the advance on service charges. If the amount of the advance is unknown, it is impossible for the landlord to fulfil his obligation under Section 7:259(2) of the Dutch Civil Code to send an annual statement of the service charges to his tenant(s).

A proposal for settlement of the advance payments by the tenant must be made to the landlord in writing at least two months before the proposed effective date. The proposal must at least state: (1) the current price, (2) the proposed rent, (3) the proposed advance on the costs of utilities with an individual meter plus service charges,[28] and finally (4) the proposed effective date of the rent and other payments.[29]

In principle, all these points must be included in the proposal to make the request valid, otherwise the current all-in rent continues to apply. A proposal that does not include all of the above points and in which the landlord is not disadvantaged can still be declared valid.

If no agreement can be reached on the proposal between the tenant and the landlord, the tenant, within six weeks of the date on which the proposal should have taken effect, can submit a request to the rent assessment committee to rule on the reasonableness of the proposal.

[28] See also paragraph 4.3.1, which explains utilities and service charges.
[29] A template letter for dividing an all-in rent can be found on the website of the rent assessment committee.

When a request is made to the rent assessment committee under Section 17(a) of the Housing Rents (Implementation) Act, the committee can officially divide the rent (on its own initiative) into a basic rent and the amount of the advance on service charges. [30] In that case, the committee will set the basic rent at 55% and the advance on service charges at 25% of the agreed rent.

A rent increase for all-in rent is always void (invalid), because a rent increase can only concern the basic rent and it is impossible to determine the basic rent when rent is charged as an all-in amount.

4.3 Utilities and service charges

4.3.1 Advance on utilities and service charges (Section 7:237 of the Dutch Civil Code)

The monthly advances are twofold: (i) utilities with an individual meter and (ii) other service charges. One part consists of costs for utilities with an individual meter,[31] including the consumption of electricity, gas, water and heat.[32] The other part consists of costs such as all charges for goods and services that are provided in connection with the occupancy of the property. The latter costs are referred to as service charges. What exactly can be classed under service charges is listed in the Service charges decree, which is

[30] In practice, the committee divides an all-in rent of its own motion.

[31] Up to 1 July 2014, a distinction was made between utilities with and without an individual meter. The distinction between utilities with and without an individual meter as a result of the legislative change means that, for example, the rent assessment committee is only authorised to rule on advances relating to utilities with an individual meter.

[32] The concept of utilities only applies to properties with their own electricity, gas, water and/or heat meter. If there is no meter in the property, these costs are considered service charges.

included in Appendix II.[33] For more information about the review process by the rent assessment committee, see paragraph 4.3.3. For more information about changing the service charges advance, see 4.3.4.

4.3.2 Settlement of utilities and service charges (Section 7:259 of the Dutch Civil Code)

The monthly amounts paid for utilities and service charges are advances that must be settled annually. Each year, up to six months after the end of the calendar year, the tenant is entitled to receive a breakdown of the advances charged and actual costs. In addition, the tenant is entitled to inspect the underlying documents (e.g. invoices and supporting documents).

If the actual costs incurred by the landlord are less than the advances paid, the landlord must reimburse the tenant the difference. However, if the actual costs incurred exceed the advances paid, the tenant will have to pay the difference to the landlord.

4.3.3 Utilities and services charges procedure (Section 7:260 of the Dutch Civil Code)

If the landlord and tenant do not reach an agreement on the amount of the actual costs incurred (i.e. they are unable to agree on the payment obligation), both the tenant and the landlord can ask the rent assessment committee to decide on the settlement for the utilities and service charges. This request can relate to a maximum period of twelve months. The request can be submitted up to two years after expiry of the term for providing a statement of the service charges.

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[33] The utilities and service charges policy book drawn up by the rent assessment committee further explains which cost items may be charged to the tenant and how.

As part of the process, the rent assessment committee investigates which costs have been incurred by requesting supporting documents from the landlord and assessing them. If the landlord does not send any supporting documents, the rent assessment committee will use a standard consumption level for a number of items and set other items at €0. The findings of the investigator (reporter) are written down in an Investigation Report that is sent to tenants along with the invitation to the hearing where it is subsequently discussed.

4.3.4 Increase in the advance on utilities and service charges and joint provisions (Section 7:261 of the Dutch Civil Code)

There are three categories for changing the advance on utilities and service charges: (i) utilities with an individual meter, (ii) services that are provided to only one tenant, and (iii) utilities without an individual meter and services that are provided to multiple tenants. The method for making changes depends on the category.

Changing the advance on utilities with an individual meter

The advance on utilities with an individual meter can only be changed in three ways.[34] First, the advance on utilities can be increased if the tenant and the landlord agree on this increase (mutual consent). A second possibility for the landlord to increase the advance on utilities arises if the landlord and the tenant agree on an expansion of the utilities package (Section 7:261(1)(a) of the Dutch Civil Code). In that case, the increase may take effect in the first month after the landlord has started supplying the agreed expanded utilities package. Third and lastly, the landlord can increase the advance if he has provided an overview of the service

[34] See paragraph 4.3.1. for an explanation. For reasons of clarity, this paragraph refers to an advance on utilities.

charges. This change takes effect retroactively the moment the new utility period starts. If the utility period runs from January to December and the landlord issues the statement in March, he can increase the advance on utility services in March, effective 1 January. Each statement may be cause for an increase in the advance once only.

In the event of regulated properties, the tenant has the option to request a reduction in the advance on utilities (Section 7:261(3)). The tenant must demonstrate that the amount of the advance payable will be considerably higher than the expected costs for utilities.

Changing the advance on services provided to only one tenant

No additional tenancy rights apply to this category. This means that the landlord can only change the advance on the service charges subject to the tenant's approval (mutual consent) or on the basis of reasonableness and fairness. The tenant may be obliged to agree on an increase in the advance if the advance owed is considerably lower than the expected costs for utilities.

Utilities without an individual meter and services that are provided to multiple tenants

In the event of goods or services that are offered in a joint context, such as Internet, gas, water, electricity, or the presence of an onsite caretaker, this can only be changed subject to 70% of the tenants having agreed. A tenant who has not agreed to the change can seek a court ruling on whether the change is reasonable. He can do this within eight weeks after written notice from the landlord stating that at least 70% of the tenants have agreed. With this type of collective changes, no distinction is made between the costs of utilities and service charges.

4.3.5 Municipal taxes and levies when renting non-self-contained dwellings

The tenant is, in principle, not obliged to pay the property tax. Whether a tenant, as a user, is obliged to pay municipal taxes and levies such as water authority tax, sewerage charges, and waste tax depends on the legislation and local tax regulations. If such tax assessments are received by the tenant, the tenant can have them remitted by the (regional) tax authorities. The municipal tax assessments and levies are subsequently imposed on the landlord. The landlord of the property is responsible for paying the taxes. The landlord is nevertheless permitted to include some tax (levied on the use of property) in the service charges. In the event of self-contained dwellings, the tenant himself is responsible for paying the taxes and levies, with the exception of property tax.

4.4 Heating supply

4.4.1 The Heating Supply Act before the change in the law

The implementation of the Heating Supply Act in 2012 meant additional legal protection for tenants who use heating and who depend on a single supplier,[35] such as district heating or block heating. Under this law, certain landlords also became heating suppliers to tenants and tenants also became consumers. With the introduction of the Heating Decree and the Heating Regulation, consumers were given protection by means of maximum rates. This applies to both costs for parts and maintenance. In addition, a maximum was set for the fees for administrative costs or metering charges. The consumer must receive an annual cost overview, including a breakdown according to usage (variable costs), fixed costs (heat loss of the system), delivery costs, and other cost items. Finally, the legislation added the right to compensation in the event of a malfunction in the heating.

The Heating Supply Act does not allow local authorities such as a municipality or a province to draw up additional (restrictive) regulations for these supplies.

4.4.2 The Heating Supply Act after the change

In drafting the Heating Supply Act, a number of issues were overlooked that caused a great deal of legal uncertainty. One of the things that were not taken into account is the relationship between

[35] The Heating Supply Act applies to the supply of heating (usually hot water and heating) that is generated by, for example, a central system for the building (block heating) or a central system for an (urban) district (district heating). In that case, the tenant does not have the freedom to purchase his heating supply from another supplier, because the property can often only be supplied by a single supplier. The legislator aims to protect these users through the Heating Supply Act.

the Heating Supply Act and the service charges regime in tenancy law. Consequently, it was unclear how the Heating Supply Act was to be applied to rental situations. In these situations, should only the Heating Supply Act be applied, just tenancy law, or both the Heating Supply Act and tenancy law? In addition, it was unclear who was competent to rule on disputes with regard to the heating supply; the rent assessment committee or an independent disputes committee. A clear-cut answer to these questions has remained forthcoming so far, and courts also turned out to differ in opinion as to which legal regime to apply.

The evaluation, which had already been promised when the Heating Supply Act was introduced, exposed these bottlenecks and ultimately led to a change in the Heating Supply Act, which was adopted by the Upper House on 3 July 2018.[36] It is expected that (the parts relating to the rental relationship in) this law will enter into force on 1 July 2019.

Most provisions in the revised Heating Supply Act do not apply to landlords and owners' associations who provide heat to their residents. Parts of Sections 8 and 8(a) of the Heating Supply Act continue to apply to landlords and owners' associations. This includes, for example, the obligation to make an individual meter available to users (Section 8), as well as the new obligation for landlords and owners' associations to install a central meter (Section 8(9)). In addition, Section 8a stipulates that consumption must be measured as individually as possible. In addition, the proprietor of the building owner has a maintenance obligation for the internal piping system for the heating supply, while the tenant is entitled to compensation in the event of malfunctions.

The fact that the Heating Supply Act has largely ceased to apply to landlords and owners' associations means that settlement of the

[36] Act of 4 July 2018 amending the Heating Supply Act (changes following the evaluation of the Heating Supply Act), ***Bulletin of Acts and Decrees*** 2018, 311.

supply of heat once again comes under the normal tenancy law regime, while maximum rates are cancelled. This means that actual costs incurred must be charged on the basis of (individual) consumption.[37]

An important question that remains unanswered is whether the costs for maintenance and the depreciation of heating systems may be charged to the tenant. After all, this ***is*** possible under the Heating Supply Act regime. The basic principle in settling utility and service charges is that maintenance costs and the replacement of immovable property (so-called appurtenances, see Section 7:233 of the Dutch Civil Code) are considered to be included in the basic rent and can, therefore, not be charged on as part of the service charges. The Ministry has taken the position that the immovable property required for the production and supply of heat forms no part of rented housing (i.e. they should not be considered appurtenances).[38] In addition, the Minister of the Interior has announced that she intends to change the decision on service charges, so that maintenance and depreciation of these systems ***can*** be charged on to tenants.[39]

[37] For a more detailed description, see the rent assessment committee's Policy Book for Service Charges.

[38] Letter of 28 February 2018 of the Deputy Director of Energy Challenges 2020 on behalf of the Ministry of Economic Affairs and Climate to Aedes, reference DGETM-E2020 / 18024371, annex to ***Parliamentary papers II*** 2017/18, 34723, 28.

[39] For more information on this subject, see: W.R. Huijbers, 'Legislative Proposal to amend the Heating Supply Change Act', WR 2018/119, part 8, p487-491.

4.5 Housing allowance

The housing allowance is an income-related contribution from the central government towards the housing costs of a tenant. A tenant is entitled to a housing allowance if he or she meets the following requirements:

- The tenant is eighteen or older;
- The tenant and landlord have signed a tenancy contract;
- The rental home is not a temporary living space, such as a shelter for the homeless or a women's refuge;
- The tenant rents an independent living space (private living room/bedroom, own kitchen with sink, water supply and drainage and connection point for a (gas-fired or electrical) hob and private toilet with flush), or a non-self-contained 'designated living space'[40];
- The tenant pays the rent;
- The tenant and possible allowance partner and co-occupier(s) are registered with the local authorities at the address of the dwelling;
- The tenant and possible allowance partner and co-occupier(s) are Dutch nationals or have a valid residence permit;
- The rent, (joint) income and assets are limited (see paragraph below).

In order to be entitled to housing allowance, the monthly basic rent (see the box in paragraph 4.1) may not exceed €737.14 (2020). Furthermore, the rent may not be less than €232.65. For young people up to the age of 23, the basic rent may not exceed €432.51. The income limit to get the maximum amount of housing allowance

[40] Living spaces designated by the Minister are non-self-contained units owned by a legal entity and let by that entity to the tenant on a non-profit basis, and which operates in the area of public housing as well. These units are usually owned by housing associations and the designation dates from before 1995.

for a single-person household is €16,650 per year and the capital limit is around €30.000. In the event of an aggregate income (income for allowance purposes) in a multi-person household, the limit is around €21,575 and the aggregate asset limit is around €60,000.[41]

Service charges can be included in the calculation of the total costs in order to be eligible for a housing allowance. The rent (on the basis of which the rent subsidy is calculated) plus service charges can be calculated by adding a maximum of €12 per cost item to the basic rent. The cost items below can be included in the calculation in order to qualify for housing allowance:

- Costs for the lift and electricity in communal areas;
- Cleaning costs for communal areas;
- Costs for an on-site caretaker;
- Maintenance costs for service areas and communal recreation rooms.

If at the end of the year it turns out that a tenant has received too much housing allowance because the tenant has too high an income and/or too many assets, he must repay any housing allowance received wrongfully. Repayment is, in principle, effected through set-off against outstanding benefits or via a letter with attached giro collection form. If your income is too high, make sure that you timely adjust the income for allowance purposes on toeslagen.nl, because repayment of housing allowance received in excess can quickly add up.

[41] These amounts are usually indexed annually.

5. Extraordinary situations

Tenant protection is a broad concept. This chapter discusses the cases of tenant protection in tenancy law, other than price or contract protection.

5.1 Quiet enjoyment under a tenancy contract and good tenant conduct

5.1.1 Quiet enjoyment under a tenancy contract as a concept (Section 7:204 of the Dutch Civil Code)

If a landlord lets a property to a tenant, he must put and keep the property at the tenant's disposal (Section 7:203 of the Dutch Civil Code). In addition, he must allow the quiet enjoyment under a tenancy contract that the tenant may expect upon commencement (Section 7:204 of the Dutch Civil Code). When a property does not provide the quiet enjoyment under a tenancy contract that the tenant may expect, this is deemed to be a defect. The tenant is expected to remedy certain defects himself, namely the so-called minor repairs (Section 7:217 in conjunction with Section 7:240 of the Dutch Civil Code).[42] Noise nuisance caused by a neighbour or a busy road is, in principle, 'an actual disturbance caused by third parties' and, according to Section 7:204(3), not deemed a defect. Only when the neighbour who causes the nuisance rents with the same landlord, the landlord can be held to account under the defect regulations.[43] However, quiet enjoyment under a tenancy contract means that the landlord must refrain from disturbances, breaches of privacy and other conduct that may impede the tenant in his quiet enjoyment of the rented property. For example, a landlord may not enter the property unannounced or without the tenant's permission.[44]

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[42] See paragraph 5.2 for a further explanation.

[43] In the event of an actual disturbance by a third party who does not rent from the same landlord, the tenant can call this third party to account on the basis of an unlawful act (Section 6:162 of the Dutch Civil Code).

[44] In the event of self-contained dwellings, a landlord cannot enter the property without the consent of the tenant(s), unless it is an emergency.

5.1.2 Good tenant conduct as a concept (Section 7:212 of the Dutch Civil Code)

Good tenant conduct simply means that a tenant must comply with legal requirements and behave in a manner befitting a proper and decent tenant.[45] How a tenant should behave depends on the circumstances of the case. When renting a room in a student house, a tenant may be subject to rules and regulations that differ compared to renting a detached house. Good tenant conduct, in any case, includes using the property in accordance with its intended purpose, without causing inconvenience to the landlord or third parties. In addition, the (timely) payment of the rent is seen as a characteristic of good tenant conduct. If the tenant does not behave in a manner befitting a good tenant, the landlord may request the court to terminate the tenancy contract.[46] It is important to state in this context that the misconduct must be serious to the extent that the interests of the landlord (and/or the local residents) outweigh the residential interests of the tenant.

Rent arrears and (consistent) late payment

In the case of rent arrears, the rule of thumb is that the tenant must be at least three months in arrears on his rent before the court decides to dissolve the tenancy contract. The consistent late

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This is possible by appointment only. In the event of non-self-contained dwellings, the landlord enjoys greater freedom to enter the general areas for checks or repairs, for example, but in principle, he may not enter individual rooms without permission. All the above depends on what has been agreed in the tenancy contract.

[45] As stated by Van der Waal, this provision is in line with the terminology of "Section 6:27 ('a prudent debtor'), 7:401 ('the care of a good contractor'), 7:602 ('the care of a good custodian'), 7:611 ('as befits a good employee and good employer') and Section 25 of the Agricultural Tenancies Act ('as befits a good tenant farmer')." ***GS Huurrecht***, Section 7:213 of the Dutch Civil Code, annotation A.

[46] Given the purpose of this tenancy law book, the term termination will be used without discussing the various forms of termination in too much detail, such as cancellation, dissolution and termination by mutual consent.

payment of the rent can also provide grounds for the tenancy contract to be dissolved. The latter case is less clear-cut and whether the court will proceed to terminate remains to be seen.

Other aspects of good tenant conduct

The tenancy contract may require the tenant to behave in a certain way or prohibit certain behaviour. Violation of such a contractual stipulation can provide a valid reason to terminate the contract. For example, the violation of a contractual stipulation that prohibits smoking in the property practically always leads to a successful appeal for termination on the grounds of 'the tenant not behaving as befits a good tenant' (Section 7:274(1)(a) of the Dutch Civil Code). The same applies to using the property for purposes other than its intended purpose, such as using it as a clubhouse[47] or operating a hemp farm.[48]

There are several dos and don'ts for the tenant that are, in any case, classed under the term 'good tenant conduct'. First, the tenant must ensure that the property remains free from damage. Not only does this include the obligation not to damage the rented property and to timely report defects to the landlord, but also the obligation to avoid loss or damage. Second, the tenant must ensure that the landlord does not suffer any other losses. Examples include the prevention of vacancy and loss of rent by the landlord as a result of the tenant's behaviour. For example, when the tenant returns

[47] For example, the eviction of a member of the Satudarah motorcycle club from a rental home was ordered by the court and subsequently ratified by the court of appeal because the rental home was used as a clubhouse. Amsterdam court of appeal, 16 January 2018, ECLI:NL:GHAMS:2018:126, NJF 2018/618.

[48] See, for example: Supreme Court of the Netherlands 9 December 2005, NJ 2006, 153; Supreme Court of the Netherlands 11 April 2008, ECLI:NL:HR:2008:BC5722; Supreme Court of the Netherlands 3 April 2009, NJ 2009, 319; Supreme Court of the Netherlands 29 May 2009, NJ 2009, 244. For information see: Heering and Reimert, in: ***GS Huurrecht***, Section 7:231 of the Dutch Civil Code, annotation 6.2.

the rented property in such a poor condition that the landlord cannot let the property again, as he needs time to make the property suitable for letting again. Third, the tenant has an obligation to inform the landlord if withholding information can affect the interests of the landlord or local residents. Fourth and lastly, a tenant must ensure that damage to the environment and local residents is prevented. Examples include conduct, such as causing noise nuisance, that is deemed unlawful (Section 6:162 of the Dutch Civil Code).[49]

Procedural aspects

If a landlord submits a notice of termination because 'the tenant has not behaved in a manner as befits a good tenant' (Section 7:274, subsection 1(a) of the Dutch Civil Code) and the tenant does not agree, the tenancy contract will continue and the landlord will have to go to court to terminate the contract. In that case, the notice of termination does not remain in force until the decision is irrevocable (after completion of a possible appeal). However, the landlord, through preliminary relief proceedings, can demand that the premises be vacated. This does require urgent importance, for example if the nuisance caused to the environment is demonstrably too extensive or if safety is compromised, for example due to a fire hazard.

5.1.3 Parties: responsibility for your guests (Section 7:219 of the Dutch Civil Code)

The obligation of a tenant to behave in a manner as befits a good tenant also applies to his guests. If, for example, 'persons who use the rented property or who are present therein with his consent' (i.e. guests) cause damage to the environment and the local residents by causing a nuisance, the tenant is as liable for this as he is for his own conduct. The tenant is responsible for damage to the property or nuisance experienced by the landlord or third

[49] See, for example: Supreme Court of the Netherlands 12 October 1992, NJ 1993/167, with commentary from P.A. Stein (Van Gent/Wijnands).

parties, but this also applies to damage or nuisance caused by guests. The tenant can, therefore, be held liable for nuisance or damage caused by guests of the tenant. It is, therefore, advisable to take out third-party (liability) insurance.

5.2 Repairs, damage, and defects

The landlord must provide for the quiet enjoyment under a tenancy contract that the tenant may expect upon commencement of the contract (Section 7:204 of the Dutch Civil Code). When a property does not provide the quiet enjoyment under a tenancy contract that the tenant may expect, this is deemed to be a defect. The tenant is expected to remedy certain defects himself, the so-called minor repairs (Section 7:217 in conjunction with Section 7:240 of the Dutch Civil Code). Noise nuisance from a neighbour or from a busy road is, in principle, 'an actual disturbance caused by third parties' and, according to Section 7:204(3), not deemed a defect. Only when the neighbour who causes the nuisance rents with the same landlord, the landlord can be held to account under the defect regulations.[50]

5.2.1. The dividing line between defects to be repaired by the landlord and minor repairs

The law distinguishes between defects to be repaired by the landlord (Section 7:206 of the Dutch Civil Code) and 'small daily repairs' (also known as 'minor repairs' or 'minor defects') to be repaired by the tenant (Section 7:217 of the Dutch Civil Code). An important distinction between 'normal defects' and 'minor repairs' lies in which party bears the costs. In the event of 'normal defects', the tenant must bear the costs for the repairs and in the event of minor repairs, these costs must be borne by the tenant. The tenant and landlord can also agree that the landlord will carry out these

[50] In the event of an actual disturbance by a third party who does not rent from the same landlord, the tenant can call this legal entity to account on the basis of an unlawful act (Section 6:162 of the Dutch Civil Code).

minor repairs and pass on the costs through the service charges (see paragraph 5.2.2.).

The basic principle is that the landlord must repair all defects (Section 7:206 of the Dutch Civil Code). This is obviously subject to a number of exceptions. First of all, minor repairs are excluded (Section 7:206(2) of the Dutch Civil Code). Which repairs should be deemed minor repairs is discussed in paragraph 5.2.1. The second exception concerns damage for which the tenant is liable towards the landlord. In everyday language, this is referred to as abnormal or improper use, with regard to which the tenant knows or should know that this would cause damage. Such conduct is generally inconsistent with the behaviour befitting a good tenant. If the damage is not caused by improper use by the tenant but, for example, by ageing or wear and tear, the repairs will be at the expense of the landlord.

Repairs that a tenant can easily carry out himself and which he is permitted to do qualify as minor repairs. The basic principle here is that a tenant with some DIY skills should be able to carry out these repairs.[51] Whether a specific tenant can do the repairs is therefore irrelevant, as the tenant is assumed to have some DIY skills, thus applying an objective criterion. If an individual tenant is unable to carry out the repairs (for example, due to physical limitations or old age), he will have to seek the assistance of someone else.

Second, minor repairs are subject to an accessibility criterion. This means that a defect cannot be considered a minor repair if it is in a place that is physically or contractually unreachable. This also includes repairs that require specialist knowledge or repairs that require materials or parts that are not readily available to the tenant.

[51] A tenant with average DIY skills is neither a complete DIY novice nor a DIY specialist (compare sub-district court Emmen 29 January 1986, WR 1986/62).

A third basic principle is that the work must not involve any significant costs. According to this principle, expensive repairs are not minor. However, this principle is not widely shared, as it is included in only a small part of the repairs in the Minor Repairs (Tenant's Liability) Decree (see Appendix III).[52]

5.2.2 Minor repairs at the expense of the tenant (Sections 7:217 and 7:240 of the Dutch Civil Code)

The Minor Repairs (Tenant's Liability) Decree is a ministerial decree describing the repairs and minor maintenance to be carried out by the tenant. A list of the repairs that must be carried out at the tenant's expense is included in the appendix. The landlord can offer a paid maintenance service for such repairs and maintenance, which the tenant can accept or reject. The landlord may charge for such a service through the service charges.

Larger landlords usually provide a clear matrix of which maintenance costs are at the tenant's own expense, which costs are included in a possible service contract, and which costs are payable by the landlord.

Section 7:217 of the Dutch Civil Code goes into maintenance due to a failure to repair defects in more detail. If defects are found and

[52] Six-Hummel, in: ***GS Huurrecht***, Section 7:2017 of the Dutch Civil Code, annotation 23 provides the following criteria for assessing whether repairs should, by their nature, be qualified as minor: "(a) the work can easily be carried out by a tenant with average DIY skills; (b) the parts of the rented property to be repaired must, according to contractual and government stipulations, be accessible and reachable by the tenant; (c) the tenant must be permitted to carry out the repairs according to contractual and government stipulations; (d) the tenant does not need to have any special expertise; (e) the work may not be expensive and it must be possible to carry out the work without incurring significant costs; (f) the materials to be used must be easy to obtain by the tenant; (g) it must be possible to carry out the work without special tools; (h) the criteria under e, f and g do not apply if the landlord bears the costs and/or provides the materials and tools."

the landlord fails to repair them, the tenant is obliged to incur costs if this prevents further damage to the property. One such example is a leak (in the roof or in pipes); if the tenant remains passive, the property can sustain water damage. These costs can be reclaimed from the landlord, provided they are reasonable. Setting off these costs against the rent is also possible. In the event of unreasonable costs, a landlord can hold the tenant liable for imputable failure to meet his obligations.

5.2.3 Defects (Section 7:241 of the Dutch Civil Code) and proposal to lower the rent (Section 7:254 of the Dutch Civil Code)

In the event of a defect to be remedied by the landlord, the tenant must notify the landlord of the defect in writing[53], the so-called defect notification. The landlord must remedy the defect within a reasonable period of time after receiving the defect notification.[54] If the defect has not been remedied within six weeks of the notification, the tenant may request the rent assessment committee to order a reduction in the rent on the basis of a (maintenance) defect. It is important to note, however, that the rent assessment committee can only temporarily lower the rent if the defects seriously disturb the quiet enjoyment of the rented property or seriously impede the usability thereof.[55] The rent assessment committee can only order a temporary rent reduction that is backdated up to six months before the request was submitted. If the defect dates back more than six months before the request was submitted and the defect has been reported, it is

[53] A template letter for reporting defects can be found on the website of the rent assessment committee.

[54] The reasonable period depends on the nature of the defect. A shorter reasonable period applies to carrying out relatively simple repairs, compared to drastic interventions such as in the event of moisture penetration due to a structural defect. A request for rent reduction due to maintenance defects can only be submitted six weeks after reporting the defect.

[55] For details, see the rent assessment committee's Defects Book.

not possible to order any rent reduction applicable to that preceding period.

If the defects are not remedied within a reasonable time period, the tenant can request a temporary discount on the rent. From a legal viewpoint, the rent is discounted until the defect has been remedied. In everyday language, this is referred to as a (temporary) rent reduction (due to maintenance defects), which term is also used by the rent assessment committee. When the defect has been remedied, the discount no longer applies, and the tenant will have to pay the full rent again.

Defects resulting in a reduction can be divided into three categories:

Category A: Very serious defects
The maximum rent reduction is up to 20% of the rent paid.
This category includes, among other things, no (fresh) air supply or air extraction, no daylight entering into rooms or a property or, in the case of renting non-self-contained accommodation, a room that cannot be locked.

Category B: Serious defects
The maximum rent reduction is up to 30% of the rent paid.
This category includes roof/wall leaks, unsafe draining of heating installations, leaning walls due to subsidence, faulty sewers or a cumulation of maintenance defects (examples include very poor condition of the exterior paintwork, wood rot, poorly sealing exterior doors/windows).

Category C: Other serious defects
The maximum rent reduction is up to 40% of the rent paid.
This category includes, among other things, insufficient ventilation, insufficient heating, noise pollution, leaks from pipes or mould patches.

The rent assessment committee's Defects Book contains the list of all possible defects in a property, including the corresponding explanatory notes. This can be found on the rent assessment committee's website, under Publications.

5.2.4 Damage to the property, except for fire damage and damage to the exterior (Section 7:218 of the Dutch Civil Code)

The tenant has a duty of care for the property. All damage linked to a failure in this duty of care for the property can be assumed to have been caused by this failure. In the event of a defect and damage caused by the tenant, the landlord can repair this (or have this repaired) at the tenant's expense.

Damage due to fire or damage to the exterior of the rented property (both when renting an entire house and when renting a room) is not included in this article.

5.3 Urgent work and renovation

5.3.1. Urgent work versus renovation (Section 7:220 of the Dutch Civil Code)

It may be that a tenant has to perform certain maintenance/work or would like to make improvements to the property himself. Urgent work (also referred to as major maintenance) is repairs or work to remedy or prevent damage that cannot be postponed until the end of the rent period and that would result in additional damage or costs if delayed.[56] Work is not just urgent in the event of a structural cause, such as a leaking roof, it can also be deemed urgent if it will lead to higher costs if postponed.[57] If it concerns improvements or refurbishments, it is, in principle, deemed a renovation that ***can*** be delayed.

The main difference between urgent work and a renovation is that a tenant is obliged to cooperate in the event of urgent work (Section 7:221(1) of the Dutch Civil Code states 'providing opportunity' or 'tolerating'), whereas the landlord is not automatically obliged to cooperate in the event of a renovation.

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[56] ***Parliamentary papers II*** 1997/98, 26 089, no.3, p.30.
[57] ***GS Huurrecht***, Section 7:220 of the Dutch Civil Code, annotation 23.

By virtue of Section 7:206(1) of the Dutch Civil Code, the landlord has a duty to remedy defects at the request of the tenant. However, if the tenant does not want to have certain defects remedied, the landlord does not automatically have a right to remedy these. Without Section 7:220(1) of the Dutch Civil Code, the landlord would have no legal basis to carry out urgent work without the tenant's permission.[58]

5.3.2 No compensation in the event of urgent work

Urgent work as described above will practically always result in losses for the tenant, because it adversely affects his quiet enjoyment under a tenancy contract and possibly means he has to incur costs to allow the landlord to perform the work (for example, take days off from work). However, this impairment of the quiet enjoyment under a tenancy contract usually does not result in any right to compensation.[59] However, a landlord does have a best-efforts obligation to keep the inconvenience caused by this urgent work to a minimum. The inconvenience caused by urgent work does have to be reasonable and proportional.[60] If at the start of the tenancy contract, the landlord knew that the structure was faulty or (intentionally) disturbs the quiet enjoyment under a tenancy contract to an extent that is unreasonable and/or disproportionate, the quiet enjoyment under a tenancy contract that is lost ***can*** lead to a temporary discount on the rent.

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[58] ***GS Huurrecht***, Section 7:220 of the Dutch Civil Code, annotation 21.

[59] Supreme Court of the Netherlands 7 December 2001, NJ 2002, 26 (***Van Sloun/William Properties***). The rationale behind this rule is that a tenant, when entering into a tenancy contract, can expect periodic work on the property to be needed and that this will involve some inconvenience.

[60] Supreme Court of the Netherlands 6 June 1997, NJ 1998, 128 (***Van Bommel/Ruijgrok***).

5.3.3 Renovation

Renovation can be taken to mean both partial refurbishments through changes or additions and demolition, followed by new construction in its place. When a landlord wants to renovate, different procedures apply to a building with ten or fewer residential units compared to larger-scale building renovation (more than ten units). The procedure to be followed by the landlord is set out in the following two paragraphs.

If renovation of the property is not possible without terminating the tenancy contract, the landlord always has the option to terminate the tenancy contract on the grounds of 'needing the dwelling for a compelling reason'. This is subject to the renovation being urgently needed.[61]

Small-scale renovation

In the event of a small-scale renovation, the landlord must make a reasonable proposal that takes into account the interests of the landlord and those of the (sub-)tenants. The landlord must make a written proposal that is practical and specific. In addition, the proposal must provide insight into the necessity, extent and duration of the work and the financial consequences. In many cases, a renovation will result in a rent increase. Provided the landlord makes a reasonable proposal, the tenant must, in principle, cooperate with the renovation.

Large-scale renovation

In the event of large-scale renovation (a building with more than ten residential units), the landlord must submit a written renovation proposal. This proposal must be realistic and specific, detailing the necessity, extent and duration of the work and the financial implications. If at least 70% of the tenants accept the renovation proposal, the proposal is deemed to be reasonable and the landlord may, in principle, start renovating. Tenants who do not

[61] For more information about this topic, see ***GS Huurrecht***, Section 7:220 of the Dutch Civil Code, annotation 101 et seq.

accept the renovation proposal can ask the court to review the reasonableness of the renovation proposal. Since the proposal is ***deemed to be reasonable*** if at least 70% of the tenants accept it, it is up to the tenant(s) who do not accept the renovation proposal to prove that the proposal is not reasonable.[62]

The reason for the legislator not to opt for a straightforward majority (half plus one) is because this is seen as insufficient support for the potentially drastic impact that a renovation can have. On the other hand, plenary approval was seen as undesirable as well, as this would allow a handful of tenants to obstruct the entire process by refusing to give their consent. The 70% majority rule also creates a framework for cooperation between the tenant(s) and the landlord in order to achieve renovation, whereby the wishes of tenants united in a tenant group must be taken into account as well. If a renovation project is started, the landlord must give tenants' organisations an annual update on the timeline.

Rent increase after renovation

The renovation plan must specify the possible rent increase as a result of the improved quiet enjoyment of the rented property (improvement of comfort) of the renovation. The rent increase must be in proportion to the improvement of the quiet enjoyment under a tenancy contract and, in the event of regulated housing, may not exceed the maximum reasonable rent. Only the costs that have led to an increase in the quiet enjoyment of the rented property may lead to a rent increase. If some of the costs are incurred due to (overdue) maintenance and part for the actual improvement of comfort, only the costs of the latter may be included. Landlords and tenants of regulated homes can contact the rent assessment committee to have the reasonableness of the rent increase reviewed.

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[62] The term 'presumed to be reasonable' is a so-called evidentiary presumption, meaning that the proposal is, in principle, reasonable, unless the other party can prove that it is not. In this case, the landlord often has a stronger case than the tenant.

Compulsory removal and temporary rent increase

The costs for necessary removal or temporary alternative housing are borne by the landlord. In the case of self-contained dwellings, the minister has set a minimum amount of €6,095 (2019). It is possible that the local authorities, too, contribute to the removal if it concerns a district or urban renewal project. This reimbursement is deducted from the landlord's reimbursement[63].

5.4 Alterations by the tenant

A tenant may make alterations to a property, provided they are not permanent and can be easily undone after leaving the rented property. More substantial alterations may require the landlord's permission (Section 7:215 of the Dutch Civil Code). This permission must be granted within eight weeks of submission of a request to that effect. However, the alteration may not harm the rentability of the property, nor may it cause a reduction in its value. It is often possible to receive compensation from the local authorities or the health insurer for alterations with regard to physical impairments, such as a shower chair or wider doors. Some alterations are primarily aimed at increasing the quiet enjoyment of the rented property. These are referred to as alterations and improvements by the tenant (ZAV). This includes installing a more luxurious kitchen or toilet and building or breaking down a wall. The tenant is personally responsible for the maintenance and wear of the alterations. If the landlord does not grant permission, permission for alterations can be requested through the court. Examples include alterations that are needed to make the home suitable for occupancy by a disabled person, but also the installation of a bed or insulation material, double glazing or solar panels to increase the property's energy performance (Energy Performance Coefficient) (Section 7:243 of the Dutch Civil Code).

[63] The standard relocation and installation allowance for self-contained dwellings is €6,095 (2019). There is no set amount for non-self-contained dwellings.

Section 7:216 of the Dutch Civil Code goes into more detail on the reversal of alterations for which no permission was given by the landlord. If the alterations have left the property in its original state and these have not led to it being untenable or losing value, a tenant is not obliged to undo unapproved alterations. If, however, the landlord is of the opinion that the alterations ***have*** left the property untenable or reduced its value, this must be demonstrated by the landlord.

5.5 Purchase is subject to existing tenancy contract (Section 7:226 of the Dutch Civil Code)

If the owner sells the property with sitting tenants, the corresponding tenancy contracts remain in force and with that all rights and obligations that arise after the sale/purchase of the property. This, in principle, includes all (verbal) agreements that have been made with the landlord but are not recorded in the tenancy contract. It is important, however, that these agreements have a direct connection with the tenancy contract.

If the landlord maintains approved alterations after terminating the tenancy contract, the tenant may claim reasonable compensation for these alterations. Such compensation does, of course, take into account the service life for depreciation purposes and the state of repair.

Installing a laminate floor or painting walls are not deemed alterations, but part of minor maintenance that is the tenant's responsibility. No compensation can be claimed from the landlord for such maintenance.

It is advised to consult with the landlord when planning major alterations. Agreements can be made about the value of the alterations, the depreciation period, and the value at the end of the tenancy contract. This will prevent potential conflicts when the contract is terminated, such as over receipts and questions such as

Defects that have arisen prior to the transfer of the property and which were reported by the tenant to the landlord must be repaired by the new landlord. Any damage caused by such a defect, for example water damage to equipment or clothing, can only be recovered from the previous landlord.

If the property is transferred in a manner other than by sale, such as acquisition through inheritance, the rights of the tenant remain in force as well. In addition, a forced sale (auction) to settle the owner's debts does not render the tenancy contract invalid either. In such a case, only the landlord changes.

If a property is mortgaged while rented out, it is assumed that the mortgage holder takes this into account when drawing up the mortgage deed. This provides the tenant with explicit tenant protection, because the right to tenancy was acquired before the mortgage holder's right of mortgage on the property.

However, it is possible that a landlord has a mortgaged property while the lender (often the bank) has not given permission to rent out a property that is encumbered with a mortgage. If the mortgage deed includes a letting clause (in accordance with Section 3:264 of the Dutch Civil Code) and the bank proceeds to sell the property because the owner is no longer able or willing to fulfil the obligations of the mortgage, the mortgage provider can have the tenants evicted.

In the case of shared use, a sale does not render a tenancy contract invalid. One such example is the apartment right, which involves a building in which property rights are split. In accordance with Section 7:227 of the Dutch Civil Code, the buyer may not impede the use of the rented part in any way. This, for example, may be the case if the owner aims to prevent access to the tenant's home through a communal hallway.

5.6 Other situations

5.6.1 Co-option/lodging and other agreements with the landlord

The landlord can give the tenants of a house in which non-self-contained rooms are let a joint right to find a new tenant. The term 'joint right' is used, thereby giving the landlord a veto against any proposed potential tenant on the basis of reasonable objections against that tenant. A reasonable objection may be, for example, that the intended new tenant is a known defaulter or known to cause a nuisance. This co-option right of tenants to select a new tenant may be included in the tenancy contract, but it can also be granted each time a room becomes available in the property. Finally, the co-option right may have been obtained naturally, because the landlord has allowed tenants to select new tenants for a prolonged period of time.

If not laid down in the tenancy contract, it is important to state that all agreements with the former tenant that have not been documented expire if the property is sold.

5.6.2 Automatic renewal equals open-ended contract (Sections 7:228 and 7:230 of the Dutch Civil Code)

If a temporary contract expires by operation of law and the landlord has not terminated the tenancy contract or otherwise given notice, the contract is automatically converted into an open-ended contract through the application of Section 7:230 of the Dutch Civil Code. The landlord does, of course, have the option to notify the tenant that the contract will end, by giving notice within the applicable time limits before the contract expires. The statutory framework for this is provided by Section 7:228 of the Dutch Civil Code (termination of contract by operation of law). For more information, see paragraphs 3.4.2, 3.4.3 and 6.7.2.

5.6.3 Access for viewings when the property is for rent/sale (Section 7:223 of the Dutch Civil Code)

If the landlord wants to sell or let (parts of) the property, the tenant must consent to pictures being taken of the rented property for use on a property website (e.g. Pararius or Funda). In addition, the landlord will be authorised to put up 'For Sale' or 'For Rent' signs. Finally, the tenant must give the landlord the opportunity to schedule viewings of the property for interested parties. The tenant must be given adequate notice of such viewings.

5.6.4 Penal Code

In a rental relationship, the provisions of the Penal Code apply in addition to the rules of the Dutch Civil Code. Not every landlord adheres to these provisions that prohibit certain behaviour. A few examples of this are threats, unlawful entry, intimidation, sexual harassment, use of cameras by the landlord in the tenant's living spaces, or abuse. It is important to always report such events to the police.

The theft of property from a non-self-contained room is not covered by the insurance if the room is not locked or cannot be locked. Hence it is important to always have a lock on your (private) room and to actually use this lock.

6. Termination of a tenancy contract

In recent decades, landlords have been given more possibilities to have a tenancy contract terminated. Examples include the student housing contract (2005)[64], the Vacant Property Act (2013), and the addition of various temporary contracts (2016). When terminating those contracts, the landlord is still bound by specific rules set out in (case) law.

6.1 Methods of terminating the tenancy contract

Often, a tenancy contract is terminated by the tenant or the landlord by giving notice (Sections 7:271 to 7:278 of the Dutch Civil Code), but there are more ways in which a tenancy contract can end. For example, the tenancy can also end by mutual consent (Section 7:271(8)), through dissolution (Section 6:265 in conjunction with Section 7:231 of the Dutch Civil Code) or, in the event of temporary tenancy contracts, by operation of law (Section 7:271(1) of the Dutch Civil Code).[65] These different ways of terminating are

[64] Before the term existed, a student housing contract was already in place in Delft and Utrecht, among other places, which allowed the landlord to cancel the tenancy under the contract, but this was not anchored in the legislation. For more information about student housing contracts, see paragraph 3.4.1: Student housing contract.

[65] In addition, there are a few additional options for terminating a tenancy contract outside the tenancy law regulations (outside Section 7.4.5 of the Dutch Civil Code). For example, the tenancy contract can be terminated in the event of bankruptcy (Sections 39, 238 and 305 of the Bankruptcy Act), suspension of payments (moratorium) or application of the debt rescheduling scheme to the tenant. It is also possible that the tenancy contract is terminated by the lender if the collateral (the property) is let by the mortgagee (Section 3:264 of the Dutch Civil Code) in spite of a prohibition in the mortgage deed (a letting clause), as a result of which the lender proceeds to foreclose. Finally, Section 6:258 of the Dutch Civil Code can be invoked for terminating the tenancy contract in the event of unforeseen circumstances, the nature of which is such that the other party, according to the standards of reasonableness and fairness, cannot expect

further explained below. See paragraph 6.7 for options of terminating the various types of temporary and target group tenancy contracts.

6.1.1 Notice of termination (Sections 7:271 to 7:278 of the Dutch Civil Code)

The main rule is that a tenancy contract must be terminated by giving notice. Contrary to termination by mutual consent, termination by giving notice is unilateral. The consent of the other party is, in principle, not required when terminating by giving notice.

6.1.1.1 Formalities of the termination letter (Section 7:271(3) of the Dutch Civil Code)

A tenancy contract must be formally terminated in writing by registered letter or bailiff's notification, subject to being declared void (invalid) (Section 7:271(3) of the Dutch Civil Code). However, case law demonstrates that a (registered) email can be sufficient to ensure the notice of termination is legally valid. Notice of termination via the landlord's own website can also be accepted as a legally valid method of termination. A notice of termination must have been received by the other party in order to take effect. This can only be demonstrated by means of the registered letter, the registered email and the bailiff's notification. If you want to avoid any disputes as to whether the notice has been received, the limited additional costs of a registered letter or email would definitely be worth it.

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the person wishing to dissolve to continue the tenancy contract (without making changes). See also: Asser/Rossel & Heisterkamp 7-II 2017/408.

6.1.1.2 Grounds for termination by the landlord (Section 7:271(4) of the Dutch Civil Code)

A landlord is obliged to state the grounds for termination in the tenancy contract (Section 7:271(4) of the Dutch Civil Code). If the landlord fails to do so, the notice of termination is not valid. There are only six grounds on which a landlord can terminate the tenancy contract (no more and no fewer):

a) the tenant has not behaved in a manner that befits a good tenant (for more information, see paragraph 5.2.1);
b) if the tenancy contract includes an eviction clause, for example if it is stipulated that the landlord himself will move into the property after the rent period has ended or if the property is temporarily let on behalf of a tenant who has gone abroad and who will continue to live in the house upon his return;
c) the landlord urgently needs the rented property for personal use. Relying on this ground because the landlord wishes to sell the property will not succeed, because this is explicitly excluded. In principle, this category sees to three cases:
    - First, the landlord can be deemed to need the dwelling for a compelling reason if the landlord wishes to live in the dwelling (i.e. not an acquaintance or a family member). This is only possible if the landlord has owned the property for three years. In this case, the court will assess whether the residential interests of the landlord outweigh those of the tenant, to the extent that the tenant will have to move. In this case, the landlord must offer alternative accommodation.
    - Second, the landlord can invoke this ground if he wants to demolish or renovate the property. In this scenario, the landlord must demonstrate that this is necessary, as well as that the tenants need to move. In a building with more than ten residential units, at least 70% of the residents must accept the landlord's demolition or renovation plan. If no consent has been obtained via this route, the landlord may have to ask the court for permission for the demolition or renovation.

- Third and lastly, target group contracts come under this ground for termination (Section 7:274(a) to 7:274(f)). More information about target group contracts can be found in paragraph 3.4.2. or 6.7.2.

d) If the tenant does not agree with a reasonable offer for a new tenancy contract, such as in case of new general terms and conditions or services to be provided by the landlord. In the event of regulated rental property, the offer may not relate to the rent or the advance on service charges.
e) If the landlord wants to implement the zoning plan. This ground for termination is hardly ever used in practice.
f) In the case of lodging, the landlord can terminate the tenancy contract if he is able to demonstrate that his interests outweigh the tenant's residential interests. This, for example, may be the case if the relationship between the tenant and landlord is severely disturbed.

6.1.1.3 Notice periods (Section 7:271(5)(6)(7) of the Dutch Civil Code)

A tenancy contract can only be terminated as from the start of a new payment term. If the rent is paid monthly, the contract can generally be terminated as from the first of the month (for example, 1 June). If the rent is paid once every three months, the tenancy contract can be terminated as from the end of this three-month period.

The tenant can terminate the agreement subject to a notice period that is equal to the payment term of the rent (a minimum of one month, a maximum of three months). The landlord can terminate the rent subject to a notice period of at least three and a maximum of six months. The notice period applicable to the landlord is three months, to be increased by one month for each year that the tenant rents the property, subject to a maximum of six months. Deviation from these notice periods to the detriment of the tenant is not permitted (Section 7:271(7) of the Dutch Civil Code). In other words, a longer notice period for the tenant or a shorter notice period for the landlord is void (not valid).

If a tenant or landlord terminates without observing the stipulated notice period, the termination applies for the correct period instead (Section 7:271(6) of the Dutch Civil Code). If, for example, a landlord terminates whilst observing a notice period of one month, whereas it should have been two months, the notice is valid but will automatically be extended to two months.

6.1.2 By operation of law with notice (Section 7:271(1) of the Dutch Civil Code)

With the introduction of temporary tenancy contracts in 2016, tenancy contracts can terminate by operation of law (automatically). This concerns temporary contracts for a maximum of two years for self-contained units and a maximum of five years for non-self-contained units. It is important to mention that Dutch parliament, when debating the legislative proposal, emphasised that open-ended tenancy contracts remain the default option and that entering into a temporary contract is subject to an explicit agreement to that end.

If the landlord wants to end a temporary tenancy contract at the end of the rent period (for example, after one year), he will have to give notice before the contract expires. This written notification must be sent within no more than three months and at least one month before the end of the tenancy contract. If no such notice is given, the contract is converted into an open-ended contract in accordance with Section 7:230 in conjunction with Section 7:271(1) of the Dutch Civil Code. The contract can also be converted into an open-ended contract when the landlord and the tenant agree that the latter can continue to live in the property. When the landlord gives notice of expiry of the contract on account of the contract ending by operation of law, no alternative accommodation has to be offered.

6.1.3 Mutual consent (Section 7:271(8))

If the tenant and the landlord both want to terminate the tenancy contract, they can do so by mutual consent. For example, if the tenant wants to move but is tied to a tenancy contract that stipulates a minimum rent period, the tenant can still terminate the contract early if the landlord agrees. A landlord can also make a similar proposal, but the tenant does not have to accept this. When terminating by mutual consent, the notice periods do not apply, and the parties can agree on any end date they wish. Termination by mutual consent thus gives the parties more freedom to end the tenancy contract according to their wishes, but both parties must agree to this.

6.1.4 Dissolution

If the tenant or the landlord fails to fulfil the obligations under the tenancy contract, or if he fails to do so in time or properly, the other party will be entitled to terminate the contract.[66] The landlord can only arrange this through the courts (with the exception of a few cases).[67] The tenant, on the other hand, can terminate the tenancy contract without judicial intervention.[68]

In the event of dissolution, the main rule is that any shortcoming in the fulfilment of the obligations under the tenancy contract justifies the (partial) dissolution of a tenancy contract. It is up to the other party to demonstrate the special nature or the minor importance of the shortcoming. Minor importance would be if a landlord tries to dissolve the contract on account of the tenant having rent

[66] This can be arranged under Section 6:265 et seq. in conjunction with Section 7:231 of the Dutch Civil Code.

[67] See, for example, Section 7:210 of the Dutch Civil Code and Section 7:231(2) for cases in which a landlord ***can*** dissolve extrajudicially (i.e. without the intervention of the court).

[68] For example, without the intervention of the court, the tenant cannot partially terminate a tenancy contract on the grounds of defects in the property.

arrears, while the arrears amount to less than three months' rent.[69] Other than in the event of a breach of contract (Section 6:74 of the Dutch Civil Code), the shortcoming need not be attributed in the event of dissolution. This means that even if the defaulting party cannot be blamed for the shortcoming, such as due to force majeure, the other party has the right to terminate the tenancy contract.[70]

Dissolution is not subject to any notice period, which means that the tenancy contract can be ended sooner than by giving notice of termination. If a tenant has not behaved in a manner befitting a good tenant (in the event of, for example, non-payment), the landlord will often and foremost demand dissolution of the tenancy contract (combined with eviction), as this can be achieved faster thanks to the absence of a notice period. If the court rules in favour of the landlord, it will order the dissolution and eviction.[71] Termination of the tenancy contract is usually sought as an alternative (in the form of a secondary subordinate cause of action) under Section 7:272(2) of the Dutch Civil Code, in case the court does not want to proceed with dissolution, but does want to grant permission for termination by giving notice.

6.2 Yielding up the property (Sections 7:216 et seq. and 7:224 of the Dutch Civil Code)

After termination of the tenancy contract and expiry of the notice period, the property must be yielded up without all the alterations or additions that have not been approved by the landlord. This may

[69] The court is not authorised to verify this of its own motion, it is up to the other party to argue his case.

[70] For example, a tenancy contract was dissolved as a result of the tenant causing nuisance, which in turn was caused by an illness he had no control over. See Supreme Court of the Netherlands 19 May 1995, NJ 1995,532.

[71] In the case of rent arrears, the court can also order a one-month grace period during which the tenant is offered a final opportunity to settle his debt.

include holes for screws, but also replacements for which no permission has been granted, such as the replacement of a toilet. In the latter case, the old toilet must be placed back, or the new toilet must be purchased by the incoming tenant.

At the start of the tenancy agreement, the landlord must draw up an inspection list with the tenant describing the condition of the rented property (Section 7:224 of the Dutch Civil Code refers to this as a description of the rented property). It states, among other things, any pre-existing damage upon commencement of the tenancy contract. This must be signed by both the tenant and the landlord. If an inspection list is not available upon commencement of the tenancy contract, the tenant will be deemed to have received the property in the condition in which it is yielded up to the landlord at the end of the contract (Section 7:224(2) of the Dutch Civil Code).

So there are basically two situations: (i) an inspection list is in place or (ii) there is no inspection list. In the first case, the tenant is expected to yield up the rented property in the condition in which it was received, with the exception of damage or wear caused by normal use. If the tenant and the landlord do not agree on whether the property has been yielded up in the right condition, it is up to the tenant to prove that any damage already existed at the start of the tenancy contract or that he is not responsible for it. In the second situation, it is up to the landlord to prove that the rental property has not been returned in the condition in which it was put at the tenant's disposal at the start of the tenancy contract. In practice, this is difficult for a landlord to prove, because often there is no evidence confirming the condition at the start of the tenancy. If, for example, the vacated property is very dirty or if minor repairs have not been carried out, the landlord will be able to recover the costs to be incurred for this from the tenant.[72]

[72] Doing a preliminary inspection with the tenant and landlord is preferred, in which it is agreed, documented and signed what still needs to be done. This can prevent a lot of discussion afterwards.

If household effects such as furniture or appliances are included in the rent and such items are specified in the contract, the tenant is also responsible for the transfer thereof. However, the landlord is responsible for any repairs of household effects in the event of defects.

6.3 Compensation if the property is not vacated in time (Section 7:225 of the Dutch Civil Code)

If the tenancy contract has terminated, the tenant must vacate the property at the end of the contract. This is only the case if (i) the tenant has terminated the contract by duly giving notice, (ii) the landlord has given notice and the tenant has accepted it, (iii) the tenancy contract has been terminated by mutual consent, or (iv) the court has ordered that the tenancy contract be terminated and the rented property be vacated. If the tenant continues to use the property after termination of the tenancy contract or after the court has ruled that the property be vacated, the landlord can claim damages. This compensation is, in principle, limited to the amount of the rent. If the landlord has suffered loss or damage in addition to the unlawful use of the property, such loss or damage can be claimed as well.[73]

6.4 Death (Sections 7:229 and 7:268 of the Dutch Civil Code)

The death of the tenant or landlord does not automatically terminate the tenancy contract. The tenancy contract for the property can be terminated by the heirs within six months of the tenant's death (subject to a one-month notice period). However, this is subject to the condition that there is no final will (testament) and that the estate is divided according to inheritance law (Section

[73] Loss of rent can also be claimed if the state in which the tenant has left the property forces the landlord to perform repairs/clean the property, thus causing a delay as to when the property can be let again.

4:13 of the Dutch Civil Code). The landlord is obliged to cooperate in the division of the estate.
A resident who is not a tenant, but who did live in a joint household (see the box in paragraph 3.1) with the deceased tenant on a long-term basis, can continue the tenancy contract for six months after the tenant's death. The tenancy contract may also be continued after the six-month period. This period can be extended by the court. If it appears to the court that there was no joint household and the tenancy contract was nevertheless continued, the remaining residents are jointly and severally liable and the court can terminate the tenancy contract.

6.5 Eviction

The landlord can request the court to determine a moment in time at which the property must be vacated, if the landlord believes that the tenancy contract must be terminated, such as on the grounds of serious nuisance. Such a request is often accompanied by a claim for termination of the tenancy contract (Section 7:272(2) of the Dutch Civil Code) or dissolution. Improper use of the rented property, for example due to serious nuisance or non-payment on the part of the tenant, is also taken into account in making the decision to evict.

6.6 Termination of temporary and target group contracts

6.6.1 Temporary contracts

Temporary contract (Section 7:271(1) of the Dutch Civil Code)

The tenant is entitled to terminate the contract early, in parallel with the payment term (a minimum of one month, a maximum of three). The landlord cannot terminate the contract early and he has to notify the tenant in writing (giving notice) of expiry of the contract. This written notification must be sent within no more than three months and at least one month before the end of the tenancy contract. If no such notice is given, the contract is converted into an open-ended contract in accordance with Section 7:230 of the Dutch Civil Code in conjunction with Section 7:271(1) of the Dutch Civil Code. The contract can also be converted into an open-ended contract when the landlord and the tenant agree that the latter can continue to live in the property. When the landlord gives notice of expiry of the contract on account of the contract ending by operation of law, no alternative accommodation has to be offered.

The temporary contracts that were recently added to the law (a maximum of two years for self-contained and a maximum of five years for non-self-contained dwellings) end when the period specified in the contract expires. They do not need to be terminated by giving separate notice (Section 7:228 of the Dutch Civil Code). If the tenant does not receive a request to vacate the property, he can assume that Section 7:230 of the Dutch Civil Code applies, which states that the tenant continues to rent the property with the consent of the landlord. At that time, the contract will be converted into an open-ended contract, regardless of the period for which it was entered into.

Short-term by nature (Section 7:232(2) of the Dutch Civil Code)

In principle, the contract cannot be terminated by either the tenant or the landlord during the agreed period, unless otherwise specified in the contract. A contract that does not stipulate a term (open-ended) can be terminated by either party, subject to a notice period of one month. In this case, the tenant has little or no tenant protection. The contract ends after the contract period or (if open-ended) after giving notice of termination. It is possible to have tenancy contracts for standard properties which are 'short-term by nature' assessed by the rent assessment committee through rent adjustment proceedings.

Contract under the Vacant Property Act (Sections 14 and 15 of the Vacant Property Act)

Both the tenant and landlord can terminate early after six months, unless a different term has been agreed in the contract. The tenant is subject to a notice period of one month, whereas the landlord must give at least three months' notice (or two months if the rental home is for sale). Finally, the contract ends automatically when the permit expires.[74]

6.6.2 Target group contracts

Regardless of the type of target group contract, if you no longer meet the target group requirements (you no longer need adapted accommodation, you are no longer a young person or a (PhD) student, or you no longer have a large family), the landlord has (further) grounds to terminate the tenancy contract. The tenant can terminate the agreement early, subject to a notice period that is equal to the payment term (a minimum of one month, a maximum of three months). If the tenant or tenants no longer meet the conditions for the target group, the landlord can terminate the tenancy contract subject to a notice period of at least three and a maximum of six months (depending on the duration of the stay).

[74] For more information, see paragraph 3.4.2.

6.7 Co-tenancy (co-tenant) and co-occupier

Paragraph 3.1 explains the difference between a co-tenant and a co-occupier. The co-occupier is only a user of the property and, therefore, he cannot claim tenancy rights and tenant protection, even if the co-occupier pays the tenant a fee for this.

In the case of co-tenancy, the rule is that termination of the contract by one of the co-tenants applies to all tenants, even if the other co-tenants have not been consulted.

If a main tenant has been designated, only this person can terminate the tenancy contract.

6.8 Settlement of advance on utilities and service charges

After termination of the tenancy contract, the landlord must settle the advance payments made for utilities such as gas, electricity and water. This may be some time after termination of the contract, as an overview of the actual costs of utilities and services is generally not available right away. After termination of the tenancy contract, the tenant remains entitled to settlement of the utilities and service charges and he may also require that the landlord provide a breakdown of and invoices for these costs. If the landlord remains in default, a claim can be lodged with the rent assessment committee or the court.

6.9 Deposit

Prior to the tenant vacating the property, the landlord may inspect it. If defects are found, the landlord determines whether this justifies withholding the deposit. The tenant can, of course, appeal against this decision through the court. Incidentally, no interest is due on any deposit paid.[75]

6.10 Taking over furniture or other items and services

When a tenancy contract has been terminated and a new future tenant has been found, the departing tenant can offer the incoming tenant the option to take over items or services. Examples of items include soft furnishings in the form of curtains or carpet, as well as furniture or appliances such as water heaters or washing machines. Services that can be taken over are, for example, Internet or cable contracts or, if rented, the water heater. The landlord is not responsible for the costs, the warranty or the transfer of these items, so this must be arranged by the tenants in mutual consultation.

[75] For more information, see paragraph 6.2 on yielding up the property.

7. Procedural law

This brief explanation of the steps or roles in the litigation process provides a first impression of the concepts and follow-up steps that are discussed here. This explanation is not aimed at complex legal matters.

7.1 Litigation by the tenant

It often happens that the tenant must demand compliance with tenancy law by the landlord through legal remedies. In principle, the tenant submits a request to change a situation regarding the tenancy contract to the landlord. This may include a reduction of the rent according to the points system, a division of the all-in rent, defects for which the tenant seeks a temporary rent reduction, or a decision about the amount or settlement of the service charges. It is recommended to specify in this request a term within which a response is expected (for example, two weeks) and to send this request by regular and registered post, so as to have proof of receipt by the landlord. The landlord is not bound by time limits as laid down in administrative law, but strict time limits apply per subject.

7.1.1 Through the rent assessment committee

If the landlord does not want to honour the request or if he does not respond, the tenant can submit a petition to the rent assessment committee if the issue concerns the rent, the utilities, service charges, or the handling of a complaint. The rent assessment committee can rule on the matter. The costs for a request, i.e. 'an advance towards the fee payable to the state', amount to €25 for a tenant and €300 for the landlord. If a landlord loses a case over the initial rent (Section 7:249 of the Dutch Civil Code) and/or an all-in price (Section 7:258 of the Dutch Civil Code) multiple times within three calendar months, he will have to pay a higher (cost-covering) fee. The landlord will have to pay €700 in fees

if he loses a case for the third time within the aforesaid term and €1,400 for all additional cases.[76]

Residents of unregulated or decontrolled dwellings can ask the rent assessment committee for a review of the initial rent as well. In the case of new contracts, this request must be made within six months of commencement of the tenancy contract. In the case of a self-contained dwelling let on a temporary contract of a maximum of two years, this is also possible six months after expiry of the temporary contract (Section 7:249(2) of the Dutch Civil Code). In the case of a non-self-contained dwelling let on a temporary contract, this is also possible six months after expiry of the temporary contract, subject to a maximum of 30 months (2.5 years) after commencement of the tenancy contract.

The rent assessment committee only deals with requests with regard to service charges of at least €36 per year (or non-recurrent charges of at least €36) or €3 per month. Below that threshold, the request is inadmissible (Section 9 of the Housing Rents (Implementation) Act). The rent assessment committee may decide to handle 'similar' requests submitted by tenants living in the same building collectively.

7.1.2 Appeal or court claim

Both the tenant and the landlord can appeal a ruling by the rent assessment committee with the sub-district court within eight weeks. This is no longer possible after that period. It is also possible that the rent assessment committee's ruling has not yet been implemented within eight weeks. In that case, the claimant can, after eight weeks, file a court claim demanding implementation of the ruling. In addition, a tenant can appeal to the sub-district court for all cases that the rent assessment committee does not have the authority to rule on.

[76] For more information, see paragraph 4.2 with regard to rent adjustment procedures and paragraph 4.3 with regard to the service charges procedure.

Initiating legal proceedings requires a summons explaining the claimant's primary and subsidiary claims. The summons sets out which cases the claimant wants a decision on from the court. After that, the court will in many cases proceed to request a written defence before an actual hearing takes place. Evidence must be produced as part of this defence.[77]

7.2 Litigation by a tenant group (rent assessment committee)

Residents' committees and tenants' organisations are recognised as tenant groups in accordance with the Tenants and Landlords (Consultation) Act (Wohv). These tenant groups have two legal channels of litigating against disputed decisions of landlords. First, they can start proceedings through the rent assessment committee. This allows for an independent opinion to be requested as to whether the proposed policy change has been conducted in accordance with the rules of the Tenants and Landlords (Consultation) Act.

The disputes committee is not authorised to comment on the substantive considerations of a policy change by the landlord. In April 2016, for example, a tenants' organisation asked for a decision on the landlord's frequent use of contracts that are short-term by nature. The disputes committee merely stated that if this concerned a policy change, this policy change would have to be submitted to the tenants' organisation.[78]

A request can also be submitted by the landlord (a housing association or private landlord with more than 25 units) in order to resolve a dispute. In many cases, these disputes concern the legal status of the tenants' participation body.

[77] More information about the order of steps can be found in the Dutch Code of Civil Procedure.
[78] Tenants and Landlords (Consultation) Act ruling 61, 13 June 2016.

A decision on the procedure of an intended policy change concerns a reference to Section 5(1) of the Tenants and Landlords (Consultation) Act, provided the tenants' organisation is the successful party. The landlord must complete the (advisory) procedure once more and/or remedy the defect in the application of the rules under the Tenants and Landlords (Consultation) Act.
An appeal against a decision by the disputes committee can be lodged with the sub-district court. The decision is not open to any further appeals.

In addition to the disputes committee, there is also a second legal channel. In this case, the petition is submitted directly to the court, after which a possible appeal against the court's decision can be lodged with the court of appeal. The costs for a dispute handled by the disputes committee of the rent assessment committee are €100. In the event of legal proceedings through the court, the costs involve at least the court fees, making it many times more expensive than submitting a petition to the disputes committee.

Appendices

Appendix I: Overview of the various temporary tenancy contract types as from 1 July 2016

Appendix II: Service charges decree

Appendix III: Maintenance at the tenant's expense

Appendix I: Overview of the various temporary and target group tenancy contract types as from 1 July 2016

Type of contract	**Contract for the disabled and the elderly (Sections 7:274(a) and 7:274(b) of the Dutch Civil Code)**	***Contract for young people (Section 7:274(c) of the Dutch Civil Code)***	***Student housing contract (Sections 7:274(d) and 7:274(e) of the Dutch Civil Code)***
When is it applicable?	The tenant needs adapted accommodation on account of a disability or his age.	The tenant must be under 27 upon commencement.	The tenant is a (PhD) student.
What should the contract say?	That the property is intended for someone with a disability and/or an elderly person.	That the property is intended for young people and that the property will be re-let to a young person after termination of the contract.	That the property is intended for (PhD) students and that the property will be re-let to a (PhD) student after termination of the contract.
Contract term	Open-ended or a fixed period of time.		
Early termination by the tenant	The tenant can terminate the agreement early, subject to a notice period that is equal to the payment term (a minimum of one month, a maximum of three months).		
Termination by the landlord	Regardless of the type of target group contract, if you no longer meet the target group requirements (you no longer need adapted accommodation, you are no longer a young person or a (PhD) student, or you no longer have a large family), the landlord has grounds to terminate the tenancy contract. The landlord can terminate the tenancy contract subject to a notice period of at least three and a maximum of six months (depending on the duration of the stay).		

Type of contract	Contract for large families (Section 7:274(f) of the Dutch Civil Code)	Temporary contract for self-contained dwelling (Section 7:271(1) of the Dutch Civil Code)	Temporary contract for non-self-contained dwelling (Section 7:271(1) of the Dutch Civil Code)
When is it applicable?	The tenant's household consists of eight people or more.	Commercial landlords are not subject to restrictions. Housing associations ***are*** subject to restrictions. For details, see paragraph 3.4.	
What should the contract say?	That the property is intended for large families and that the property will be re-let to a large family after termination of the contract.	The term of the tenancy contract and explicitly the fact that it concerns a temporary contract.	
Contract term	Open-ended or a fixed period of time.	Any term, subject to a maximum of two years.	Any term, subject to a maximum of five years.
Early termination by the tenant	The tenant can terminate the agreement early, subject to a notice period that is equal to the payment term (a minimum of one month, a maximum of three months).		
Termination by the landlord	If the family consists of fewer than five people, the landlord has grounds to terminate the tenancy contract. The landlord can terminate the tenancy contract subject to a notice period of at least three and a maximum of six months (depending on the duration of the stay).	The contract ends by operation of law. The landlord must inform the tenant in writing at least one month and a maximum of three months before the end of the tenancy contract as to when the contract ends. If the landlord fails to do so, the tenancy contract will continue as an open-ended contract. In that case, the usual terms of termination apply.	

Type of contract	Temporary tenancy (with the landlord moving into the property upon expiry) (diplomatic clause/temporary subletting) (Section 7:274(1)(b)(2) of the Dutch Civil Code)	Short-term by nature (Section 7:232(2) of the Dutch Civil Code)	Vacant Property Act
When is it applicable?	The owner or original tenant is staying elsewhere but will move into the house again after the end of the contract. The tenant needs the landlord's permission to temporarily sublet the property.	In situations in which it is clear to both the landlord and the tenant that the let is 'short-term', such as when renting holiday homes or temporary accommodation.	If it concerns an (i) owner-occupied or a rented house for sale, (ii) a rented house due to be demolished or renovated or (iii) a unit in an office building awaiting its final designated use. A municipal permit is required.
What should the contract say?	For what period the contract is entered into and the reason for the temporary let (namely that the owner or original tenant will occupy or re-occupy the property upon return).	That it concerns a contract which is 'short-term by nature'.	That the permit has been granted; - if it does not concern an owner-occupied house, the permit must state the maximum rent (according to the WWS points system).
Contract term	The contract can be entered into for any period. The landlord and tenant can furthermore agree to extend the agreed term.	A short period. The maximum duration is not legally defined.	Five years in the event of houses for sale, seven years in the event of rented houses awaiting demolition or renovation and ten years in the event of residential units in (office) buildings.
Early termination by the tenant	The contract cannot be terminated by the landlord or tenant during the agreed rent period, unless agreed upon.	The contract cannot be terminated by the landlord or tenant during the agreed rent period, unless agreed upon. It can be terminated by both in the event of an open-ended contract (notice period of one month).	The tenant is subject to a notice period of one month, whereas the notice period for the landlord is at least three months (two months in the event of rented houses for sale).

Termination by the landlord	The landlord must terminate according to the statutory regulation.	The contract automatically ends after the agreed period or (in the event of an open-ended contract) after notice of termination. No protection against eviction and no rent protection.	The contract ends automatically when the Vacant Property Act permit expires.

Appendix II: Service charges decree

The compensation payable for the goods and services referred to in the appendix to the service charges decree will, in any case, be regarded as service charges as referred to in Section 237(3), Book 7 of the Dutch Civil Code:

1. **Heating supply**
    a. the supply of electricity, gas, oil and heated water, or another form of energy for heating the communal areas;
    b. the use and reading of heat meters and consumption meters in the communal areas.

2. **Electricity, gas, and water**
    a. the supply of electricity, gas and water for use in the communal areas and for communal facilities;
    b. the use and reading of meters, the processing of meter readings in the statement as referred to in Section 259(2), Book 7 of the Dutch Civil Code, and other administrative work in relation to the allocation of consumption and consumption costs to individual tenants.

3. **Movable property**
    a. The movable property made available under the tenancy contract in the rented property or communal areas which, in any case, includes:
        a.i. movable equipment for the purpose of heating water;
        a.ii. movable kitchen appliances;
        a.iii. movable heater;
        a.iv. furniture, soft furnishings, and other household effects.

4. **Minor repairs**
   Minor repairs which, under Section 217, Book 7 of the Dutch Civil Code or the Minor Repairs (Tenant's Liability) Decree, are at the expense of the tenant but have been carried out under the tenancy contract by the landlord for the tenant in or on the rented property, the communal areas or on the communal facilities.

5. **Household waste**
   Services for the disposal of household waste, which in any case includes:
   a. providing bin bags to the tenant;
   b. making a refuse container available;
   c. transporting household waste within the building of which the property forms part.

6. **On-site caretaker**
   Within the context of supervision, safety, and personnel support during occupancy:
   a. supervising the correct use of the communal areas by the residents, their visitors, and third parties;
   b. supervising the safety of the rented parts that form part of the properties and the communal areas;
   c. responding to burglar alarms sounding from the rented property;
   d. distributing the post;
   e. other services that promote the quiet enjoyment of the residents of the residential building of which the property forms a part, which in any case includes the performance of minor repairs at the expense of tenants.

7. **Signal reception and distribution**
   Services within the context of the central reception and

forwarding of a radio, TV, computer signal, or signal for other electronic equipment which, in any case, includes:

a. making movable electronic equipment available for the reception and forwarding of the signal;
b. carrying out minor repairs to the electronic equipment for the reception and forwarding of the signal;
c. concluding and maintaining the subscription for the central reception of the signal for the tenants;
d. paying copyright on behalf of the tenants;
e. paying the standing charges and call charges on behalf of the tenants for an emergency telephone in the lift with a direct line to the control room.

8. **Electronic equipment**
   Services in connection with the use of electronic equipment, video surveillance equipment, alarm equipment, and data network equipment which, in any case, includes:
   a. making moveable electronic peripherals available;
   b. carrying out minor repairs to the electronic equipment.

9. **Insurance**
   Participating in a group insurance contract or setting up a common fund on behalf of the tenant to cover the tenant's risk associated with his obligations, provided that taking out the insurance or forming the fund represents a demonstrable benefit for the tenant, that the payments from the insurance or the funds or proceeds from the fund are only used for the purpose of the insurance or the fund, and that the landlord accounts for it in the annual statement as referred to in Section 259(2), Book 7 of the Dutch Civil Code.

10. **Communal areas**

The goods and services referred to in this Decree for the right to use communal areas given under the tenancy contract.

11. **Administrative costs**
The administrative costs for the processing of meter readings for the statement referred to in Section 259(2), Book 7 of the Dutch Civil Code, and other administrative work in relation to the allocation of consumption and consumption costs to individual tenants, as well as those of other goods and services referred to in this Decree.

Appendix III: Maintenance at the tenant's expense

List of minor repairs that are at the expense of the tenant:

a) the whitewashing of interior walls and ceilings and painting interior woodwork and, if necessary, wallpapering the interior walls;
b) the preparatory work for the work described under a which, in any case, includes puttying, sanding and filling holes, dents and minor (shrinkage) cracks;
c) fixing and tightening loose parts in the property which, in any case, includes:
    a. bannisters, doorknobs and thresholds;
    b. electrical switches, sockets and doorbells;
d) replacing and renewing components and parts of the property that are easy to replace and located inside of the rented property, all this without incurring significant costs, which in any case includes:
    a. tap washers and other easy-to-replace parts of taps;
    b. doorknobs and locks, hinges and locks for doors and windows;
    c. floor and ceiling diffusers;
    d. keys to interior and exterior locks;
    e. shower and bathroom fittings;
    f. toilet fittings;
    g. electric switches, wall sockets, doorbells, cable connections, telephone connections and computer connections and similar components in data networks;
e) keeping in working order, regularly inspecting the movability and, if necessary, oiling and lubricating or de-scaling of movable parts, which in any case includes:
    a. hinges of doors, shutters and windows;
    b. locks;
    c. taps;

f) making provisions to prevent (having to repair) frozen taps;
g) replacing lights on the outside of the rented property and in the communal (exterior) areas;
h) replacing damaged windows and built-in mirrors, insofar as this does not involve any significant costs;
i) maintaining and replacing parts of technical systems located inside of the rented property and forming a part thereof, insofar as this maintenance work is non-complex in nature and does not require specialist knowledge, all this without incurring significant costs which, in any case, includes:
    a. bleeding and topping up the heating system;
    b. restarting the heating system after a failure;
    c. replacing filters of the (mechanical) ventilation and keeping the grilles clean;
j) installation and maintenance of draught prevention measures, if necessary and insofar as this work does not involve any significant costs;
k) replacing and renewing components and parts of the property that are easy to replace and located outside of the rented property, all this without incurring significant costs which, in any case, includes:
    a. parts of the letterbox;
    b. parts of the outdoor light;
    c. parts of the carport;
    d. parts of the flagpole bracket;
l) maintenance of gardens, grounds, driveways and boundary partitions, such that these appurtenances appear well looked after which, in any case, includes:
    a. in the case of first occupancy of a property, the garden or grounds that are part of the rented property: making a garden or landscaping the grounds with the exception of the laying of driveways and access paths and the installation of a basic boundary partition;
    b. levelling the garden and applying garden mould;

c. regularly mowing the grass;
d. regular removal of weeds in the garden and between tiles of driveways, access paths and terraces;
e. replacing broken tiles;
f. regular trimming of hedges, hedgerows and sprouting trees;
g. replacing plants that have died;
h. replacing broken boards or segments of wooden boundary partitions, straightening wooden boundary partitions and taking measures to ensure they remain upright;
i. if boundary partitions are painted or stained, they must be regularly painted or stained;

m) sweeping chimneys, exhaust ducts and ventilation ducts, if necessary and insofar as these can be accessed by the tenant;
n) keeping clean and, if necessary, unclogging the inner sewer up to the connection point from the rented property to the municipal sewer or the main sewer, insofar as this sewer can be accessed by the tenant;
o) keeping clean and, if necessary, unclogging the refuse chute and keeping the refuse container area clean, insofar as this facility and area can be accessed by the tenant;
p) keeping the rented property and the communal areas clean;
q) washing and keeping the inside and outside of the windows, window frames, door frames, painted woodwork and other painted parts clean, insofar as these can be accessed by the tenant;
r) carrying out pest control, insofar as this does not involve any significant costs and insofar as the presence of these pests is not a consequence of the structural status of the property;
s) regular cleaning of gutters and rainwater discharge, insofar as these can be accessed by the tenant;
t) regular removal of litter;

u) removal of graffiti, insofar as this does not involve any significant costs and insofar as this graffiti can be accessed by the tenant;
v) the emptying of soakaways, cesspools, and septic tanks.

You often have your first experience with tenancy and the rights and obligations that come with it as a student, but you receive hardly any information on the matter and might struggle with the legal jargon contained within law books. That is why the LSVb has developed a set of straightforward tenancy guidelines for students.

Many students contact the LSVb with questions regarding their tenancy contract. Since you as a tenant of student accommodation are dependent on your landlord in many things, it is important to know what you can demand from him and what is for your own account. For example, do you want to know whether you are supposed to carry out a certain repair yourself? Or does the landlord want to turn you out and do you want to know whether he is legally allowed to do so? And are you unsure whether you are the main tenant or a co-tenant and what difference this makes with regard to your tenancy contract? This book contains the answers to all of these questions and is based in law. It is important for both you and the landlord that tenants know their rights. You as a tenant are often in a stronger position than you think, but that doesn't matter if you are not aware of this. In short: don't be discouraged by difficult legal texts, open the Tenancy Law Book and say goodbye to uncertainty!

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