

RENTING HOMES (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 - Termination Etc. of Occupation Contracts

Chapter 1 - Overview and Introductory Provisions

Section 147 – Overview of Part

352. An overview of this Part is provided by a table setting out the occupation contracts to which each chapter applies, and the content of each chapter.

Section 148 – Permissible termination etc.

353. An occupation contract may only be ended in accordance with the fundamental terms relating to termination that apply to that type of contract, or in accordance with provisions in other legislation (including in other Parts of the Act). This does not affect the possibility of a contract being rescinded by the landlord or the contract-holder (for example, due to fraudulent misrepresentation by the landlord), nor the operation of the law of frustration (for example, the setting aside of a contract due to a **circumstance** rendering it impossible to comply with its contractual obligations). Section 20 provides that this section must be incorporated without modification as a term of all occupation contracts.

Section 149 – Possession claims and Section 150 – Possession notices

354. **Section 149** provides that a possession claim (i.e. a claim made to the court by the landlord to obtain possession of their property) may only be made in the circumstances set out in Chapters 3 to 5 and 7. Section 20 provides that section 149 must be incorporated without modification as a term of all occupation contracts.
355. A landlord wishing to make a possession claim must first issue the contract-holder with a ‘possession notice’, but this requirement does not apply where-
- a. a landlord gives notice under the contract term incorporating section 173 (the landlord’s right to end a periodic standard contract simply by giving notice),
 - b. a landlord gives notice under a ‘landlord’s break clause’ in a fixed term standard contract (see section 194), or
 - c. a landlord gives notice under the contract term incorporating section 186 (notice given in connection with the end of the fixed term of a fixed term standard contract).
356. This is because the termination of the tenancy arises in the above circumstances purely because the landlord has given a notice, and not for any other reason.
357. A possession notice will notify the contract-holder that the landlord is seeking to regain possession of the dwelling. Section 150 details what a possession notice must set out;

that is, the details of the ground under which the notice has been given (the reason the landlord is seeking possession), the landlord's intention to make a possession claim to the court, and the date after which the landlord can make this claim.

Section 151 – Introductory standard contracts and prohibited conduct standard contracts: notices under section 173 and 181

358. In relation to an introductory standard contract or a prohibited conduct standard contract, a notice given by a landlord under the term of the contract incorporating section 173 (landlord's notice), or a possession notice given by a landlord before making a claim under the term of the contract incorporating section 181 (serious rent arrears), must also set out the contract-holder's right to require the landlord to carry out a review (under section 202) of the decision to seek possession. Subsection (3) provides for the section to be incorporated as a fundamental term of all introductory standard contracts and prohibited conduct standard contracts.

Chapter 2 - Termination Etc. Without a Possession Claim

(This Chapter Applies to All Occupation Contracts)

Section 152 – Early termination by contract-holder

359. A contract-holder may, before the earlier of receiving the written statement of the contract or becoming entitled to occupy the dwelling, end the contract by giving the landlord notice. Any rent, deposit or other consideration given in connection with the contract must be returned by the landlord.

Section 153 – Termination by agreement

360. This section provides for an occupation contract to be ended by agreement between the contract-holder and landlord (if the contract incorporates this section as a term). The contract ends when the contract-holder gives up possession as agreed. If a substitute occupation contract (defined in subsection (2)) arises, the contract which the landlord and contract-holder agreed to terminate ends immediately before the occupation date of the substitute contract.

Section 154 – Repudiatory breach by landlord

361. A contract-holder may end an occupation contract by giving up possession of the property if the landlord has committed a repudiatory breach of the contract. A repudiatory breach is one so significant as to justify termination. For example, if the landlord is required to pay for utility bills under the contract, then a failure to pay such bills which results in termination of the utility could represent a repudiatory breach.

Section 155 – Death of sole contract-holder

362. Where a contract-holder dies, and there are no joint contract-holders, the contract ends one month after the contract-holder's death or, if earlier, when the landlord is informed of the death by an 'authorised person' (defined in subsection (2)). If another person is entitled to succeed to the tenancy, the succession will take place in accordance with sections 73 to 83.
363. If a family property order (defined in section 251) requires the contract to be transferred to someone else, the contract will be dealt with in accordance with that order.
364. **Section 20** provides that section 155 must be incorporated without modification as a term of all occupation contracts, except fixed term standard contracts that contains the provision mentioned in section 139(1) (transfer on death of sole contract-holder).

Section 156 - Death of landlord where occupation contract is a licence

365. Since an occupation contract which is a licence is based on the granting of a personal interest to occupy the dwelling by the landlord, it will end on the death of the landlord.

Chapter 3 - Termination of All Occupation Contracts (Possession Claims by Landlords)

Section 157 – Breach of contract

366. This section provides that breach of the contract by the contract-holder is a ground on which the landlord may seek possession.

Section 158 – False statement inducing landlord to make contract to be treated as breach of contract

367. This section provides that breach of contract includes circumstances where a landlord is induced to enter into an occupation contract as a result of a false statement made by the contract-holder or someone instigated to act by the contract-holder. This means that something done before the contract is entered into is a breach of contract. Section 20 provides that section 158 must be incorporated without modification as a term of all occupation contracts.

Section 159 – Restrictions on section 157

368. This provides that a landlord, before making a possession claim under the term of the contract incorporating section 157, must give the contract-holder a possession notice setting out that ground. Subsection (2) provides that where the landlord relies on a breach of the prohibited conduct ground (which is addressed in section 55), the landlord may make a claim on the day the notice is given to the contract-holder. Subsection (3) provides that in the case of other breaches, the landlord may not make the claim less than one month after the date the landlord gave notice. Subsection (4) provides that any possession claim relating to a contract-holder's breach of contract must be made within 6 months of the date of the landlord giving the notice.

Section 160 – Estate management grounds

369. A landlord who wishes to seek possession of a dwelling using one of the estate management grounds (set out in Part 1 of Schedule 8, which is also a fundamental provision) may apply to the court for a possession order.
370. Should the court make an order for possession, the landlord must pay the reasonable relocation expenses likely to be incurred by the contract-holder. This is not the case with Grounds A (building works) and B (redevelopment schemes), in relation to which the contract-holder is entitled to a 'home loss payment' under section 29 of the Land Compensation Act 1973.

Schedule 8 - Estate Management Grounds

Part 1 – The Grounds

371. **Part 1** of this Schedule sets out the estate management grounds under which landlords of all occupation contracts can make a possession claim, subject to having complied with the notice requirements and time limits in section 161.
372. There are three principal types of ground: redevelopment grounds; special accommodation grounds; and under-occupation grounds. There is also an 'other estate management reasons' ground to address a substantial reason relating to the management of an estate which is not covered by the other grounds. The following paragraphs set out the circumstances in which each of the estate management grounds arise.

Redevelopment grounds

Paragraph 1 - Ground A (building works)

373. The landlord intends to demolish or rebuild the dwelling or part of the building in which the dwelling is located, or carry out work on the dwelling or the building in which the dwelling is located or any land which is part of the dwelling (as to which, see the definition of dwelling in section 246(1)(b)), which could not reasonably be done without obtaining possession of the dwelling.

Paragraph 2 - Ground B (redevelopment schemes)

374. This ground is satisfied if either of two conditions is met. The first condition is that the dwelling is in an area which is subject to an approved redevelopment scheme (the approval process for such schemes is set out in Part 2 of the Schedule), and the landlord intends to dispose of the dwelling in accordance with the scheme within a reasonable period after obtaining possession. The second condition is that part of the dwelling is within the area of an approved redevelopment scheme and the landlord intends to dispose of the dwelling in accordance with the scheme within a reasonable period after obtaining possession, and therefore reasonably requires possession.

Special accommodation grounds

Paragraph 3 - Ground C (charities)

375. The landlord is a charity and the continued presence of the contract-holder would conflict with the objects of that charity. This is subject to the proviso that at the time the contract was made, and at all times since that date, any person who was the landlord has been a charity.

Paragraph 4 - Ground D (dwellings suitable for disabled people)

376. The dwelling is substantially different from ordinary dwellings in order to accommodate a person with a physical disability, no such person currently lives in the property and the landlord requires it for such a person.

Paragraph 5 - Ground E (housing associations and housing trusts: people difficult to house)

377. The landlord is a housing association or housing trust which provides dwellings specifically for those difficult to house, no such person is living in the dwelling or any such person who is a contract-holder has been offered a secure contract relating to another dwelling, and the landlord requires the dwelling for occupation by such a person. Sub-paragraph (2) sets out the meaning of 'difficult to house' for the purpose of this Ground.

Paragraph 6 - Ground F (groups of dwellings for people with special needs)

378. The dwelling is part of a group of dwellings which the landlord provides to people with special needs, there is a social service or special facility in close proximity to assist people with those special needs, there is no longer a person with those special needs living in the dwelling and the landlord requires the dwelling for a person with those needs.

Under-occupation grounds

Paragraph 7 - Ground G (reserve successors)

379. The contract-holder succeeded to the contract as a reserve successor (i.e. a family member or carer who is not a priority successor; see sections 73, 76 and 77) following

the death of the previous contract-holder, and the dwelling is larger than reasonably required. In such cases, under the term of the contract incorporating section 161(4), the landlord may not give the possession notice until at least six months have passed since the landlord became aware of the death of the previous contract-holder, and no later than twelve months after that date.

Paragraph 8 - Ground H (joint contract-holders)

380. A joint contract-holder has withdrawn or been excluded from the contract, and either the property is larger than reasonably required by the remaining contract-holder(s), or, if the landlord is a community landlord, the remaining contract-holder(s) do not meet the landlord's criteria for the allocation of housing. In such cases, under section 161(5), the possession notice must be given to the remaining contract-holder(s) within six months of the former joint contract-holder ceasing to have rights and obligations under the contract.

Other estate management reasons

Paragraph 9 - Ground I (other estate management reasons)

381. There is some other substantial estate management reason, including in relation to other premises of the landlord to which the dwelling is connected in some way.

Section 161 - Restrictions on section 160

382. A landlord seeking possession of a dwelling on an estate management ground must give the contract-holder a possession notice specifying the ground. The landlord may not make a possession claim within one month of, or six months after, the date the notice was given.
383. Where a scheme including the disposal and demolition or reconstruction of buildings, or the carrying out of other works to buildings or land, has been approved as a 'redevelopment scheme' under Part 2 of Schedule 8, but the approval is subject to conditions, the landlord may give a possession notice under estate management Ground B (redevelopment scheme) before the conditions are met.
384. Where a reserve succession has taken place following the death of the contract-holder, and the dwelling is more extensive than reasonably required by the successor, a landlord seeking possession under estate management Ground G cannot give the possession notice within six months of, or twelve months after, the date on which the landlord became aware of the previous contract-holder's death. Where there are joint landlords, the restrictions on making a possession claim on this ground will run from the date on which any of one the joint landlords becomes aware of the contract-holder's death.
385. A landlord seeking possession under estate management Ground H (departing joint contract-holder) may not give a possession notice specifying the Ground later than six months after the date on which the joint contract-holder's rights and obligations under the contract ended.

Section 162 - Estate management grounds: redevelopment schemes

386. **Part 2** of Schedule 8 (approval of redevelopment schemes) makes provision supplementing estate management Ground B.

Schedule 8 - Estate Management Grounds

Part 2 - Approval of redevelopment schemes for purposes of Ground B

387. **Part 2** of Schedule 8 sets out the process for obtaining approval from the Welsh Ministers, for the purposes of estate management Ground B, for a 'redevelopment

scheme'; that is, a scheme for the disposal and redevelopment of an area of land which includes all or part of a dwelling subject to an occupation contract. This Part also concerns approval of variations of such schemes.

Paragraph 11

388. In addition to providing for the approval of redevelopment schemes and any variations, this paragraph defines the terms 'disposal' and 'redevelopment'.

Paragraph 12

389. This paragraph sets out the requirements in relation to the notice that must be given to contract-holders if a redevelopment scheme is proposed, or if a variation of such a scheme has been proposed. It provides for a 28 day period during which the contract-holder may make representations. No application can be made to the Welsh Ministers to approve a redevelopment scheme, or variation of a scheme, before any such representations are considered.
390. Where a landlord would otherwise be required to consult the contract-holder under arrangements it has made in accordance with section 234, sub-paragraphs (6) and (7) remove that requirement due to the consultation required by this paragraph.

Paragraph 13

391. This paragraph sets out the matters that must be taken into account by the Welsh Ministers in considering an application, including any representations made to them. The landlord must also give the Welsh Ministers information they request on any representations made under paragraph 12.

Paragraph 14

392. The Welsh Ministers may not approve a scheme or variation such that only part of a dwelling, or a dwelling unaffected by works but proposed to be included in any disposal, is included within the area of the scheme, unless satisfied that inclusion is justified.

Paragraph 15

393. This paragraph enables the Welsh Ministers to give any approval subject to conditions, and to make the approval valid only for a limited time. Conditions and time limits can be varied by the Welsh Ministers on the application of the landlord, or for any other reason.

Paragraph 16

394. This paragraph provides that, for the purposes of Part 2 of the Schedule, a community landlord is a landlord in relation to a dwelling if it has any kind of interest in the dwelling. This interest may be other than a freehold or leasehold interest.

Chapter 4 - Termination of Secure Contracts (Contract- Holder's Notice)

Section 163 - Contract-holder's notice and Section 164 - Minimum notice period

395. These sections provide that the contract-holder may end the occupation contract by giving at least four weeks' notice to the landlord.

Section 165 – Recovery of possession

396. A landlord may make a possession claim on the ground that a contract-holder, having given notice to the landlord to end the contract under the term of the contract incorporating section 163, fails to give up possession on the date specified in that notice.

Section 166 – Restrictions on section 165

397. This section sets out restrictions on the exercise of the landlord's power to seek possession on the ground set out in section 165. The landlord must give the contract-holder a possession notice specifying the ground. The landlord may make a possession claim on or after the day the possession notice is given to the contract-holder, but no later than six months after that day. Furthermore, the possession notice cannot be given more than two months after the date specified in the contract-holder's notice as being the date on which possession would be given up.

Section 167 - Termination of contract on contract-holder's notice

398. Where the contract-holder gives up possession of the dwelling on or before the date specified in the notice given under the term of the contract incorporating section 163, the contract runs until that date. Where the contract-holder gives up possession after the date specified in the notice and no order for possession is made, the contract ends on the date the contract-holder gives up possession. If a possession order is made on the ground in section 165, the contract will end in accordance with section 206 (which sets out the effects of a possession order).
399. If the contract-holder, before the end of the notice period, withdraws the notice given under the term of the contract incorporating section 163 and the landlord does not object to this in writing, within a reasonable period, the notice ceases to have effect.

Chapter 5 - Termination of Periodic Standard Contracts

Section 168 to 172 - Contract-holder's notice and minimum notice period

400. These sections provide that the contract-holder under a periodic standard contract may end the occupation contract by giving at least four weeks' notice to the landlord.
401. These sections are essentially the same as the provisions in Chapter 4 on the termination of secure contracts by contract-holders, discussed above.

Section 173 – Landlord's notice and Section 174 - Minimum notice period

402. **Section 173** provides that the landlord under a periodic standard contract may end that contract by giving the contract-holder notice that he or she must give up possession of the dwelling on a date specified in the notice. Where this section is not incorporated within an occupation contract, the related provisions in sections 125(1)(b) and 126 regarding variation of the contract by the landlord by giving notice will not apply (because those sections concern the power of the landlord to unilaterally vary the contract, and to treat a notice of variation as a notice seeking possession given under the term of the contract incorporating section 173, where the contract-holder does not accept the variation).
403. **Section 174** sets out the minimum notice period. The landlord cannot specify a date by which a person must give up possession which is less than two months from the date on which the notice is given.

Section 175 - Restrictions on section 173: notice may not be given in first four months of occupation

404. A landlord is prevented from giving a notice under section 173 during the first four months of occupation. In the case of a substitute occupation contract (defined in subsection (3)), the four-month period is calculated from the occupation date of the original contract (also defined in subsection (3)). This section has the effect of preventing a landlord from obtaining possession of a dwelling using a landlord's notice during the first six months of a person's occupation of the dwelling. Section 20 provides that this section must be incorporated without modification in all periodic standard

contracts, unless the contract does not incorporate section 173 as a term or is of a type listed in Schedule 9.

Schedule 9 – Standard contracts to which limits in sections 175, 185(2) and 196 (landlord’s notice during first six months of occupation) do not apply

405. This Schedule sets out the types of standard contract to which the restrictions (under sections 175, 185(2) and 196) on issuing a landlord’s notice, or the use of a landlord’s break clause, do not apply. For various differing reasons, these contracts need to retain the landlord’s ability to terminate the contract within the first six months of occupation. They include, for example, service occupancies, where it would not be reasonable for an employer, on the termination of an employment contract, to have to wait six months to recover possession of accommodation provided in relation to that employment.

Section 176 – Restrictions on section 173: breach of information requirements

406. Where a landlord has not provided the contract-holder with a written statement of their contract, as required by section 31(1) or (2), they may not give a possession notice under section 173. Furthermore, the landlord is prevented from giving a notice under section 173 for a period of six months starting with the day the written statement is provided.

407. Where a landlord has failed to provide the contract-holder with a contact address, or any of the other information required under the term of the contract incorporating section 39, the landlord is prevented from giving a notice under section 173 until information is provided.

Section 177 - Restrictions on section 173: breach of security and deposit requirements

408. A landlord may not give a possession notice under the term of the contract incorporating section 173 where security has been taken in a form that does not comply with section 43 (that is, a form other than money or a guarantee), and has not been returned.

409. A landlord is also prevented from giving a notice under the term of the contract incorporating section 173 (subject to the exception below) where: a deposit has not been protected under an authorised deposit scheme; a deposit has been paid but the landlord has not met the initial requirements of the deposit scheme; or a deposit has been paid but the information required by the term of the contract incorporating section 45(2)(b) (that is, information prescribed by regulations under section 45(3)) has not been provided to the contract-holder.

410. The restrictions in the paragraph above on giving notice do not apply where a deposit has been returned or matters relating to an application to the court under paragraph 2 of Schedule 5 have come to an end. Section 20 provides that this section must be incorporated without modification in all periodic standard contracts, unless the contract does not incorporate section 173 as a term.

Section 178 – Recovery of possession

411. Where a landlord has given a notice under the term of the contract incorporating section 173, the landlord may make a claim for possession to the court. Section 215 provides that the court must make an order for possession if satisfied that the ground in section 178(1) is made out (subject to any defence based on the contract-holder’s human rights, and to the application of section 217, on retaliatory evictions, addressed below).

Section 179 – Restriction on section 178

412. A landlord may not make a possession claim under the term of the contract incorporating section 178 before the date specified in the notice given under the term

incorporating section 173, or after two months have elapsed from that date. This, therefore, provides for a two-month period in which the landlord is able to make a possession claim.

Section 180 – Termination of contract on landlord’s notice

413. Where the contract-holder gives up possession of the dwelling on or before the date specified in the notice given under the term incorporating section 173, the contract ends on the specified date. Where the contract-holder fails to give up possession on or before that date, the contract ends on the date that the contract-holder gives up possession or, if a possession order is made, on the date determined in accordance with section 206 (effect of possession order).
414. However, if the landlord withdraws the possession notice before the contract ends, and the contract-holder does not object to this in writing within a reasonable period, the notice will cease to have effect.

Section 181 - Serious rent arrears

415. Where the contract-holder has fallen into ‘serious rent arrears’ the landlord may make a possession claim to the court on this ground. ‘Serious rent arrears’ is defined in subsection (2); for example, it arises where there is at least two months’ unpaid rent where rent is payable monthly, or eight weeks’ unpaid rent where rent is payable weekly.
416. Subject to any available defence based on the contract-holder’s human rights, the court must make a possession order if it is satisfied the contract-holder was in serious rent arrears at the time the possession notice was given and also when the possession claim is heard by the court (see section 216).

Section 182 - Restrictions on section 181

417. The landlord must give the contract-holder a possession notice stating the ground of serious rent arrears before making a possession claim on that ground. The landlord under most periodic standard contracts may make a possession claim after 14 days have passed from the date on which notice was given. The landlord under an introductory standard contract or a prohibited conduct standard contract may not make the claim before the end of the period of one month starting with the day on which the notice was given; this is to allow time for any review under Chapter 8 of this Part to take place. In either case, the claim must be made within six months of the date on which notice was given. Subsection (4) provides for these restrictions to be fundamental provisions incorporated into periodic standard contracts, and sets out which descriptions of periodic standard contract the specific restrictions apply to.

Section 183 – Relevance of events under fixed term standard contract

418. Where the contract-holder remains in occupation following the end of the fixed term under a fixed term standard contract, and a periodic standard contract has arisen under section 184(2), the landlord may make a possession claim based on a notice given during the fixed term. Such a notice could be either a possession notice or a notice given under section 186 (landlord’s notice in connection with end of fixed term).
419. The provisions relating to a landlord’s notice set out in sections 174 to 177, 179 and 180 apply to a notice, and any related possession claim, under the term of a contract incorporating section 186.
420. In any possession notice given in relation to a periodic standard contract arising under section 184(2) the landlord may rely on events that occurred during the fixed term period.

421. This section is a fundamental provision but only in relation to a periodic standard contract which arises at the end of a fixed term standard contract, under section 184(2).

Chapter 6 – Fixed Term Standard Contracts: End of the Fixed Term

Section 184 – End of fixed term

422. A contract made for a fixed term agreed between landlord and contract-holder ends at the expiry of that term. But where the contract-holder remains in occupation following the end of the fixed term, a new periodic standard contract will automatically be created.
423. The occupation date for the new contract immediately follows the end of the fixed term and the rental periods remain as they were. The fundamental and supplementary terms of the new contract will be those applying to periodic standard contracts. The terms of the preceding contract will otherwise continue to apply, so far as compatible with the new fundamental and supplementary terms.
424. Instead of a new periodic standard contract arising automatically in the way described above, a landlord and contract-holder may agree a new contract in the normal way, with an occupation date immediately following the end of the fixed term.
425. If, on or before the occupation date of the new contract, the contract-holder does something which would otherwise cause the new contract to end, that will not have the effect of ending the contract.
426. Where a periodic standard contract arises under subsection (2) following the end of a fixed term standard contract there is no requirement for the landlord to again provide the contract-holder with an address to which documents can be sent under the term of the contract incorporating section 39(1). The address of the landlord will not have altered purely as a consequence of the creation of the new periodic standard contract.

Section 185 – Written statement may address periodic standard contract arising under section 184(2)

427. The section provides for a written statement of a fixed term standard contract to set out the terms of the periodic standard contract which may arise at the end of the fixed term under section 184(2). Where such a contract arises and the landlord has previously given the contract-holder a written statement as permitted by this section, he or she is treated as having complied with the requirement to provide a written statement in relation to a new contract under section 31(1).

Chapter 7 – Termination of Fixed Term Standard Contracts

Section 186 – Landlord’s notice in connection with end of term

428. A landlord may, before or on the last day of the fixed term, give notice that the contract-holder must give up possession on a date specified in the notice. The specified date must not in any event be less than six months after the occupation date of that contract (or, where that contract is a substitute occupation contract (see subsection (4)), the occupation date of the original contract (again, see subsection (4)). Additionally, the specified date must not be before the last day of the fixed term, and must not be less than two months after the date on which the notice is given. This section also provides for a landlord to make a possession claim on the ground of having served the notice in connection with the end of the fixed term. Under section 215, if the court is satisfied the requirements of the ground are met it must make a possession order, subject to any available defence based on the contract-holder’s human rights.
429. Therefore, regardless of the length of the fixed term period, a landlord may not make a possession claim until six months after the date on which the contract-holder became entitled to occupy the dwelling under the contract. A landlord is able to make a

possession claim the day after the fixed term ends (unless the fixed term purports to be for less than six months), provided the required notice was given to the contract-holder at least two months previously.

430. **Section 20** provides that this section must be incorporated without modification as a term in all fixed term standard contracts. However, subsections (2) and (4) are not incorporated into a contract which does not incorporate subsection (1) as a term (so that the landlord cannot give notice in connection with the end of the term), or is of a type listed in Schedule 9.

Section 187 – Serious rent arrears and Section 188 – Restrictions on section 187

431. These provisions are identical in effect to the equivalent provisions relating to periodic standard contracts (see notes for sections 181 and 182).

Section 189 – Contract-holder’s break clause and Section 190 - Minimum notice period

432. A fixed term standard contract may contain a contract-holders break clause. This enables the contract-holder to end the contract before the end of the fixed term. Where such a break clause is included, the contract-holder wishing to rely on it to leave the contract must provide notice to the landlord specifying the end date. Sections 190 to 193 are fundamental provisions incorporated into all fixed term standard contracts that have a contract-holder’s break clause. Section 190 requires that the date specified in the notice may not be less than four weeks after the date the notice is given. These provisions have broadly the same effect as the provisions relating to contract-holders’ notices under secure contracts and periodic standard contracts.

Section 191 – Recovery of possession

433. This section enables a landlord to recover possession of the dwelling in the event of a contract-holder, having given notice to the landlord under a contract-holder’s break clause, failing to give up possession on the date specified in that notice.

Section 192 – Restrictions on section 191

434. This section sets out restrictions on the exercise of the landlord’s power to obtain possession on the ground in section 190. If the landlord seeks possession on this ground, the landlord must give the contract-holder a possession notice specifying the ground within two months of the date the contract-holder was due to give up possession. The landlord may make a possession claim from the day the possession notice is given to the contract-holder, but not more than six months after that day.

Section 193 – Termination of contract under contract-holder’s break clause

435. This section provides that, where the contract-holder gives up possession of the dwelling on or before the date specified in the notice given under the contract-holder’s break clause, the contract will end on that date. Where the contract-holder gives up possession after the date specified in the notice, the contract ends on the date the contract-holder gives up possession.
436. If the contract-holder, before the end of the notice period, withdraws the notice given under the contract-holder’s break clause, and the landlord does not object to this, in writing, within a reasonable period, the notice ceases to have effect.

Section 194 – Landlord’s break clause and Section 195 - Minimum notice period

437. A fixed term standard contract may contain a landlord’s break clause. This break clause enables the landlord to end the contract before the end of the fixed term, by giving notice to the contract-holder. Sections 195 to 201 are fundamental provisions incorporated

into all fixed term standard contracts that have a landlord's break clause. Section 195 provides that the date for giving up possession specified in the notice must be more than two months after the date on which the notice is given.

Section 196 to 201 - Restrictions on use of landlord's break clause and arrangements for recovering possession

438. See the notes addressing sections 175 to 180, regarding the restrictions on use of a landlord's notice under a periodic standard contract, and the related arrangements for recovering possession. The provisions relating to use of a landlord's break clause are broadly identical.

Chapter 8 - Review by Landlord of Decision to Give Notice Requiring Possession

(This Chapter Applies Only to Introductory Standard Contracts and Prohibited Conduct Standard Contracts)

439. Sections 202 and 203 concern internal reviews by landlords of decisions to seek possession. Such reviews apply to notices relating to introductory standard contracts (see section 16) and prohibited conduct standard contracts (see section 116), which are given under the term of such a contract which incorporates section 173 (landlord's notice) or section 181 (serious rent arrears).

Section 202 – Review of decision to terminate introductory standard contracts or prohibited contracts standard contracts

440. This section confers a right on a contract-holder, who has received a notice seeking possession under the term of the contract incorporating section 173 (landlord's notice) or a possession notice specifying the serious rent arrears ground (see section 181), to request a review by the landlord of the decision to give the notice. A request for review must be made to the landlord within 14 days of the date on which the landlord gives the contract-holder the notice (unless the landlord allows additional time).

Section 203 - Landlord's review of decision to give a notice

441. A landlord, having received a request to carry out a review which was made in compliance with section 202, must carry out a review of the decision to give a notice. The landlord must notify the contract-holder of the outcome of the review before the date after which the landlord may make a possession claim related to the notice. If the review confirms the decision to give the notice, the reasons for the confirmation must be given.
442. Under subsections (5) and (6), the Welsh Ministers may make regulations concerning the procedure relating to reviews.

Chapter 9 - Possession Claims: Powers of Court

(This Chapter Applies to All Occupation Contracts)

Section 204 – Possession claims

443. Section 204 provides that the court may not consider a possession claim where the landlord has not complied with any relevant provision set out in subsection (1). Subsection (1)(a) sets out sections of the Act which impose specific requirements or restrictions relating to possession claims. Subsection (1)(b) sets out the general requirement for possession notices to comply with section 150, and section 151 in the case of introductory standard contracts or prohibited conduct standard contracts. Subsection (2) provides that the court may dispense with these requirements if it considers it is reasonable to do so.
444. Under subsection (3), subsection (1) does not apply to an application by the landlord, where there is a sub-occupation contract, for an 'extended possession order' against a

sub-holder under section 65(2) (that is, an order which requires that a contract-holder and a sub-holder give up possession).

Section 205 – Orders for possession

445. This section provides that the power of the court to make a possession order is limited to the grounds listed in subsection (1). Subsection (2) applies where a possession notice has been given to the contract-holder, and restricts the court to making a possession order only in relation to a ground specified in the possession notice, but subsection (3) provides that the court may allow the notice to be amended before it makes an order.

Section 206 – Effect of order for possession

446. This section deals with the effect of a possession order. Where a court makes a possession order, the contract ends on the date specified in the order, even if the contract-holder gives up possession beforehand. If the contract-holder continues to occupy the dwelling after the date set in the order, the contract ends when the contract-holder gives up possession, but if the contract-holder does not give up possession before the order is executed, the contract ends when the order is executed. In cases where an order requires that some but not all joint contract-holder(s) must be offered a new contract in respect of the relevant dwelling, the original contract ends immediately prior to the new one commencing.

Section 207 – Participation in proceedings

447. A person with 'home rights' (as defined by section 30(2) of the Family Law Act 1996; for example, a person living in their partner's property during a divorce or separation) who is occupying a dwelling but who is not the contract-holder, has a right to participate in possession proceedings relating to that dwelling, as well as a right to seek an adjournment, postponement, stay or suspension of those proceedings.

Section 208 – Misrepresentation or concealment of facts used to obtain order for possession

448. The court may order a landlord to pay compensation to a contract-holder if it is satisfied that a possession order made by the court was obtained using misrepresentation or concealment of material facts.

Chapter 10 – Possession Claims: Powers of Court in Relation to Discretionary Grounds

(This Chapter Applies to All Occupation Contracts)

Section 209 – Breach of contract ground

449. Where a landlord makes a possession claim on the ground of breach of contract the court may only make a possession order if it considers it reasonable to do so. The court is able to make a possession order even if the contract-holder was no longer in breach of the contract before the landlord made the possession claim.

450. This section also introduces Schedule 10.

Schedule 10 - Orders for Possession on discretionary grounds etc.: reasonableness

451. **Schedule 10** sets out the circumstances that the court must consider (so far as the court thinks they are relevant) in relation to making a possession order on the ground of breach of contract. The court has discretion as to whether to make the order (in contrast to the 'absolute grounds', where, broadly speaking, the court must make the order sought if the ground is made out). This Schedule also applies where the court is considering whether to make an order on an estate management ground (see section 210), and where

the court is considering whether to adjourn proceedings or postpone the giving up of possession under a possession order (see section 211).

452. Paragraphs 4 to 13 set out the various circumstances. In summary, these are:
- Circumstances as regards the contract-holder;
 - Circumstances as regards the landlord;
 - Circumstances as regards other persons;
 - Whether the landlord has offered or undertakes to offer a new occupation contract;
 - Circumstances which are relevant to a possession claim on ground of breach of contract;
 - Circumstances which are relevant to a possession claim concerning section 55 (prohibited conduct);
 - Circumstances which are relevant to a possession claim on estate management Ground G of the estate management grounds (accommodation not required by reserve successor); and
 - Circumstances which are relevant to a possession claim on estate management Ground H (departing joint contract-holder).
453. Paragraph 14 sets out a circumstance to which a court must not have regard (subject to any other duty to have regard to that circumstance); that is, the likelihood of assistance being provided to the contract-holder in the event of him or her becoming homeless.

Section 210 – Estate management grounds

454. Where a landlord makes a possession claim under an estate management ground (see section 160), the court may only make an order if it considers it reasonable to do so (see Schedule 10, addressed above) and is satisfied that the landlord will make suitable alternative accommodation available to the contract-holder (see Schedule 11).
455. Where a landlord makes a possession claim on Ground B (redevelopment), and the redevelopment scheme is subject to conditions, the court must be satisfied that such conditions have been, or will be, met before it can make the order. Any costs awarded for reasonable expenses to the contract-holder under section 160(4) should be agreed between the landlord and the contract-holder, but can be determined by the court and recovered from the landlord as a civil debt. A civil debt is a debt which can be enforced by the court.
456. This section also (along with section 222) introduces Schedule 11, which sets out the matters to be considered in determining whether alternative accommodation is suitable.

Schedule 11 - Suitable alternative accommodation

457. This Schedule applies in relation to possession orders under an estate management ground. It also applies in relation to an order made under section 222 (appeal following possession for abandonment), which provides the court with a power to order a landlord to provide suitable alternative accommodation.
458. Schedule 11 makes provision about determining whether, in any specific case, suitable alternative accommodation will be available. In particular, paragraph 4 sets out a number of matters which the court must consider.

Section 211 – Powers to adjourn proceedings and postpone giving up of possession

459. The court may adjourn possession proceedings made on the ground in section 157 (breach of contract) or on an estate management ground (see section 160) for such

period or periods as it considers reasonable. Where the court makes a possession order under section 209 (breach of contract) or section 210 (estate management grounds), it may suspend the giving up of possession for such period or periods as it thinks fit.

460. Where under this section the court has adjourned proceedings or postponed the giving up of possession, it must impose conditions on the contract-holder in relation to any rent arrears and the continued payment of any rent until the proceedings are concluded, unless it considers that to do so would cause exceptional hardship to the contract-holder or be unreasonable in any other way.
461. The court may impose any other conditions that it thinks appropriate and can discharge the order for possession against the contract-holder if it considers that the required conditions have been met. The circumstances set out in Schedule 10 (addressed above) must be considered by the court, so far as it thinks them relevant, when making a decision on whether to adjourn proceedings or postpone the giving up of possession.

Chapter 11 – Possession Claims: Powers of Court in Relation to Absolute Ground

(This Chapter Applies Only to Secure Contracts)

Section 212 – Contract-holder’s notice ground

462. Where a contract-holder under a secure contract has given notice to the landlord under the term of the contract incorporating section 163, and subsequently the landlord has made a possession claim in reliance of the ground in the term of the contract incorporating section 165 (i.e. the contract-holder has failed to give up possession after he or she gave notice to end the contract), the court must make a possession order, subject to any defence based on the contract-holder’s human rights.

Section 213 – Review of claim made on absolute ground

463. Where a landlord makes a possession claim under the term of the contract incorporating section 165, and the landlord is a community landlord or the landlord’s decision to make such a possession claim is subject to judicial review, a contract-holder may, during possession proceedings in the county court, apply for a review by the court of the landlord’s decision to seek possession. The court may confirm or quash the landlord’s decision. The principles applied by the High Court during an application for judicial review will be applied by the county court; this section means that where the application for the order for possession is before the county court, there will be no need for the contract-holder to bring separate proceedings in the High Court on a judicial review of the decision to issue the notice.

Section 214 – Powers to postpone giving up of possession

464. Where the court makes an order for possession under section 212, it may postpone the giving up of possession. But it may not postpone the giving up of possession for more than 14 days after the making of the possession order unless exceptional hardship would be caused to the contract-holder. In such cases, possession may be postponed for up to six weeks.

Chapter 12 - Possession Claims: Powers of Court in Relation to Absolute Grounds

(This Chapter Applies Only to Standard Contracts)

Section 215 – Notice grounds

465. Where a landlord has made a possession claim under the term of the contract incorporating section 170 or 191 (which, respectively, concern failure to give up possession after giving a contract-holder’s notice under a periodic standard contract or a fixed term standard contract), or section 186 (notice in connection with the end of a fixed term standard contract), the court must make a possession order, subject to any available defence based on the contract-holder’s human rights.

466. The court must also make an order for possession where the landlord has made a possession claim under the term of the contract incorporating section 178 or 199 (which apply, respectively, to a landlord's notice under a periodic standard contract or a fixed term standard contract). This is subject to any available defence based on the contract-holder's human rights, and to section 217 (retaliatory evictions). In the case of certain landlords, the contract-holder may, under section 218, be able to seek a review of the landlord's decision to make the possession claim.

Section 216 – Serious rent arrears grounds

467. A court must make a possession order against a contract-holder who has a standard contract where it is satisfied that the serious rent arrears ground (section 181 (periodic standard contracts) or 187 (fixed term standard contracts)) has been met. That is, the contract-holder is in serious arrears on the date the landlord made the claim and on the date the possession claim is heard by the court. This is subject to any available defence based on the contract-holder's human rights. In the case of certain landlords, the contract-holder may be able to seek a review of the landlord's decision under section 218.

Section 217 – Retaliatory possession claims to avoid obligations to repair etc.

468. Where a landlord has given a landlord's notice and makes a possession claim under the term of the contract incorporating section 178 (periodic standard contracts) or section 199 (fixed term standard contracts), the court may choose not to make a possession order if it considers the claim to be a retaliatory claim; that is, the possession claim has been made by the landlord to avoid their obligations relating to repair of the dwelling and keeping it fit for human habitation under the terms of the occupation contract incorporating sections 91 and 92. Note that this provision effectively does not apply in relation to a fixed term standard contract for a term of seven years or more, as sections 91 and 92 are not automatically incorporated into such contracts.
469. Subsection (4) provides a power for the Welsh Ministers to make regulations amending the section in order to provide for further descriptions of retaliatory claim.

Section 218 – Review of claim made on absolute ground

470. This section applies to a landlord who is a community landlord or whose decision to make a possession claim is subject to judicial review. This is in broadly identical terms to section 213, addressed above.

Section 219 – Powers to postpone giving up of possession

471. This is in broadly identical terms to section 214, addressed above.

Chapter 13 – Abandonment

(This Chapter Applies to All Occupation Contracts)

Section 220 - Possession of abandoned dwellings

472. Where a landlord believes that a contract-holder has abandoned the dwelling, they may recover possession of the dwelling without the need for a court order. In such circumstances the landlord must give the contract-holder a notice stating the landlord believes the contract-holder has abandoned the dwelling. The notice must inform the contract-holder that he or she must contact the landlord in writing before the end of the 'warning period' to confirm the dwelling is not abandoned, and that if he or she does not do so, the landlord will end the contract. The warning period is four weeks from the day on which notice is given (as to which see section 237, which provides that notice can be 'given' to someone in a variety of ways, including by posting it to the dwelling in question).

473. The landlord must, during the warning period, carry out such inquiries as are necessary to satisfy themselves that the contract-holder has indeed abandoned the dwelling. If, at the end of the warning period, the landlord is satisfied that the contract-holder has abandoned the dwelling, the landlord may end the contract by means of giving the contract-holder a further notice, copies of which must be provided to any lodger or sub-holder who lives in the dwelling.

Section 221 – Disposal of property

474. The Welsh Ministers may make regulations about what should be done with any property found in a dwelling where the contract has ended under section 220.

Section 222 – Contract-holder’s remedies

475. Within six months of the notice ending the contract having been given, the contract-holder may apply to the court for a remedy on any of the grounds set out in subsection (2); for example, the ground that the landlord failed to make the necessary inquiries during the warning period.
476. A court can effectively overturn the landlord’s termination of the contract if it is satisfied that one of the grounds in subsection (2) is met. The court may reinstate the contract in relation to the dwelling, require the landlord to provide suitable alternative accommodation (the availability of which is determined in accordance with Schedule 11) or make any other order it thinks fit.

Section 223 – Power to vary periods of time relating to abandonment

477. The Welsh Ministers may make regulations varying the warning period under section 220(8) or the period allowed for the contract-holder to seek a remedy under section 222(1).

Section 224 – Rights of entry

478. Under this section a landlord is entitled to enter a dwelling at any time where they reasonably believe it has been abandoned, using reasonable force if necessary, in order to make the dwelling and its contents secure.

Chapter 14 – Joint Contract-Holders: Exclusion and Termination

(This Chapter Applies to All Occupation Contracts)

Section 225 – Non-occupation: exclusion by landlord

479. Where the contract requires joint contract-holders to occupy the dwelling as their only or principal home, and the landlord believes that a joint contract-holder is not occupying the dwelling and does not intend to, the landlord can take action to exclude that joint contract-holder from the contract. To do so, the landlord must give the relevant joint contract-holder notice that they do not believe he or she is living in the property, and does not intend to live there in future, and that the landlord will therefore be terminating the joint contract-holder’s rights and obligations under the contract. The notice must require the joint contract-holder to contact the landlord in writing within four weeks of the day on which notice was given to confirm that they are occupying, or intend to occupy, the dwelling.
480. During this four-week warning period the landlord must make such inquiries as are necessary to be satisfied that the joint contract-holder is not occupying the property and does not intend to. If, at the end of the warning period, the landlord is satisfied that the joint contract-holder is not living in the dwelling, and does not intend to, the landlord may end the joint contract-holder’s rights and obligations under the contract by giving a further notice to the joint contract-holder, copies of which must be provided to the

other joint contract-holder(s). The joint contract-holder's rights and obligations under the contract end eight weeks after this second notice is given.

Section 226 – Remedies for exclusion under Section 225

481. During the eight week period after the second notice is given and before the joint contract-holder's rights and obligations under the contract are ended under section 225, the joint contract-holder may apply to the court for a remedy on the grounds in subsection (2); for example, the joint contract-holder was occupying the dwelling and had a good reason for not responding to the notice.
482. If the court is satisfied that one of the grounds in subsection (2) is met, it can declare that the notice given under section 225(6) is of no effect and that the joint contract-holder continues to be a party to the contract. The court may also make any further order it thinks fit.

Section 227 – Non-occupation: exclusion by joint contract-holder

483. Under this section, one joint contract-holder ('C') may act to end the rights and obligations of another joint contract-holder ('J'). This only applies where the contract requires occupation of the dwelling as the only or principal home of J.
484. C may seek to end the rights and obligations of J where C believes that J is not living in the dwelling and does not intend to do so in future. In such circumstances, C must give J notice that they do not believe that J is living in the dwelling, or intends to live there, and that J's rights and obligations under the contract may be ended unless they contact C in writing within four weeks to confirm that they are living, or intend to live, in the dwelling.
485. Copies of this notice must be provided by C to the landlord and any other joint contract-holders. During this four week period C must make such inquiries as are necessary to be satisfied that J is not occupying the dwelling and does not intend to. If, at the end of the four-week period, C is satisfied that J is not living in the dwelling, and does not intend to, C may apply to the court to have J's rights and obligations under the contract ended.
486. Where the court is satisfied that J does not live, and does not intend to live, in the dwelling, it may make an order ending J's rights and obligations under the contract on a specified date, unless J's absence can be attributed to another joint contract-holder breaching the prohibited conduct term of the contract (see section 55, and see also section 230 which sets out what the landlord may do in such situations).

Section 228 – Remedies for exclusion under section 227

487. J, within six months of the court order being made under section 227, may apply to the court to rescind its order on a ground in subsection (3). The court may rescind its order and reinstate J as a party to the contract, and make any other order it thinks fit.

Section 229 – Power to vary periods of time relating to exclusion of joint contract-holder

488. The Welsh Ministers may by regulations amend the time periods in sections 225(4) (the warning period relating to exclusion by landlord), 226(1) (period within which a joint contract-holder can seek a remedy from the court following exclusion by landlord), 227(10) (the warning period relating to exclusion by another joint contract-holder), and 228(2) (period within which a joint contract-holder can seek a remedy from the court following exclusion by another joint contract-holder).

Section 230 – Prohibited conduct: exclusion by landlord

489. A landlord may apply to the court for an order to end the rights and obligations under a contract of a joint contract-holder who the landlord believes is in breach of the term

of the contract incorporating section 55 (anti-social behaviour and other prohibited conduct). Before making the application, the landlord must give a notice to the joint contract-holder stating the details of the breach, and that the landlord intends to apply to the court to have the joint contract-holder's rights and obligations under the contract ended. The landlord must also give a notice to the other joint contract-holders informing them that the landlord believes that a breach of the term incorporating section 55 has occurred, though not the details of it, and of the intention to apply for a court order. The application to the court must be made within six months of the notice being given to the joint contract-holder who has allegedly breached the term incorporating section 55. If a court makes the order, the joint contract-holder's rights and obligations end on the date set out in that order.

Section 231 – Termination of occupation contract with joint contract-holders

490. A contract with joint contract-holders can only be ended by the joint contract-holders acting together.

Chapter 15 - Forfeiture and Notices to Quit Not Available

Section 232 – Forfeiture and notices to quit

491. This section provides that landlords under occupation contracts may not do certain things, even if they may appear to have the right to do those things under the contract, or under other law.
492. So, any provision in an occupation contract or any other legal right allowing the landlord to give a notice to quit, or granting rights in relation to re-entry or forfeiture, has no effect.
493. A right to forfeiture is a landlord's unilateral right to bring a tenancy to an end in the event of a breach by the tenant.