



# Renting Homes (Wales) Act 2016

2016 anaw 1

## PART 5 **E+W**

### PROVISIONS APPLYING ONLY TO SECURE CONTRACTS

## CHAPTER 2 **E+W**

### VARIATION OF CONTRACTS

#### 103 Variation **E+W**

- (1) A secure contract may not be varied except—
  - (a) in accordance with sections 104 to 107, or
  - (b) by or as a result of an enactment.
- (2) A variation of a secure contract (other than by or as a result of any enactment) must be in accordance with section 108.
- (3) This section is a fundamental provision which is incorporated as a term of all secure contracts; section 20 provides that subsections (1)(b) and (2) of this section—
  - (a) must be incorporated, and
  - (b) must not be incorporated with modifications.

#### Commencement Information

II [S. 103](#) in force at 1.12.2022 by [S.I. 2022/906](#), [art. 2](#)

#### 104 Variation of rent **E+W**

- (1) The landlord may vary the rent payable under a secure contract by giving the contract-holder a notice setting out a new rent to take effect on the date specified in the notice.

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- (2) The period between the day on which the notice is given to the contract-holder and the specified date may not be less than two months.
- (3) Subject to that—
  - (a) the first notice may specify any date, and
  - (b) subsequent notices must specify a date which is not less than one year after the last date on which a new rent took effect.
- (4) This section is a fundamental provision which is incorporated as a term of all secure contracts under which rent is payable <sup>[F1]</sup>, except a secure contract which is a housing association tenancy].

#### Textual Amendments

- F1** Words in s. 104(4) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Housing Association Tenancies: Fundamental Provisions\) Regulations 2022 \(S.I. 2022/799\)](#), regs. 1, **5(2)** (as amended by [S.I. 2022/906](#), arts. 1(2), 14)

#### Commencement Information

- I2** [S. 104](#) in force at 1.12.2022 by [S.I. 2022/906](#), [art. 2](#)

### 105 Variation of other consideration **E+W**

- (1) Where consideration other than rent is payable under a secure contract, the amount of consideration may be varied—
  - (a) by agreement between the landlord and the contract-holder, or
  - (b) by the landlord in accordance with subsections (2) to (4).
- (2) The landlord may give the contract-holder a notice setting out a new amount of consideration to take effect on the date specified in the notice.
- (3) The period between the day on which the notice is given to the contract-holder and the specified date may not be less than two months.
- (4) Subject to that—
  - (a) the first notice may specify any date, and
  - (b) subsequent notices must specify a date which is not less than one year after the last date on which a new amount of consideration took effect.
- (5) This section is a fundamental provision which is incorporated as a term of all secure contracts under which consideration other than rent is payable.

#### Commencement Information

- I3** [S. 105](#) in force at 1.12.2022 by [S.I. 2022/906](#), [art. 2](#)

### 106 Variation of fundamental terms **E+W**

- (1) A fundamental term of a secure contract may be varied by agreement between the landlord and the contract-holder (subject to section 108).

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- (2) This section is a fundamental provision which is incorporated as a term of all secure contracts.

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**Commencement Information**

**I4** S. 106 in force at 1.12.2022 by S.I. 2022/906, art. 2

**107 Variation of supplementary and additional terms** **E+W**

- (1) A supplementary or additional term of a secure contract may be varied (subject to section 108)—
- (a) by agreement between the landlord and the contract-holder, or
  - (b) by the landlord giving a notice of variation to the contract-holder.
- (2) Before giving a notice of variation the landlord must give the contract-holder a preliminary notice—
- (a) informing the contract-holder that the landlord intends to give a notice of variation,
  - (b) specifying the proposed variation and informing the contract-holder of its nature and effect, and
  - (c) inviting the contract-holder to comment on the proposed variation within the time specified in the notice.
- (3) The specified time must give the contract-holder a reasonable opportunity to comment.
- (4) The notice of variation must specify the variation effected by it and the date on which the variation takes effect.
- (5) The period between the day on which the notice of variation is given to the contract-holder and the date on which the variation takes effect may not be less than one month.
- (6) When giving a notice of variation the landlord must also provide the contract-holder with such information as the landlord considers necessary to inform the contract-holder of the nature and effect of the variation.
- (7) This section is a fundamental provision which is incorporated as a term of all secure contracts.

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**Commencement Information**

**I5** S. 107 in force at 1.12.2022 by S.I. 2022/906, art. 2

**108 Limitation on variation** **E+W**

- (1) A fundamental term of a secure contract incorporating any of the fundamental provisions to which subsection (2) applies may not be varied (except by or as a result of an enactment).
- (2) This subsection applies to the following fundamental provisions—
- (a) section 103(1)(b) and (2) and this section,
  - (b) section 45 (requirement to use deposit scheme),

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- (c) section 52 (joint contract-holder ceasing to be a party to the occupation contract),
  - (d) section 55 (anti-social behaviour and other prohibited conduct),
  - (e) section 148 (permissible termination),
  - (f) section 149 (possession claims),
  - (g) section 155 (death of sole contract-holder), and
  - (h) section 158 (securing contract by use of false statement).
- (3) A variation of any other fundamental term (other than by or as a result of an enactment) is of no effect—
- (a) unless as a result of the variation—
    - (i) the fundamental provision which the term incorporates would be incorporated without modification, or
    - (ii) the fundamental provision which the term incorporates would not be incorporated or would be incorporated with modification, but <sup>F2</sup>... the effect of this would be that the position of the contract-holder is improved;
  - (b) if the variation (regardless of whether it is within paragraph (a)) would render the fundamental term incompatible with a fundamental term which incorporates a fundamental provision to which subsection (2) applies.
- (4) A variation of a term of a secure contract is of no effect if it would render any term of the contract incompatible with a fundamental term (unless that fundamental term is also varied in accordance with this section in a way that would avoid the incompatibility).
- (5) Subsection (4) does not apply to a variation made by or as a result of an enactment.
- (6) This section is a fundamental provision which is incorporated as a term of all secure contracts; section 20 provides that this section—
- (a) must be incorporated, and
  - (b) must not be incorporated with modifications.

#### Textual Amendments

**F2** Words in s. 108(3)(a)(ii) omitted (7.6.2021) by virtue of [Renting Homes \(Amendment\) \(Wales\) Act 2021 \(asc 3\)](#), s. 19(3), [Sch. 5 para. 2\(2\)](#)

#### Commencement Information

**I6** [S. 108](#) in force at 1.12.2022 by [S.I. 2022/906](#), [art. 2](#)

## 109 Written statement of variation E+W

- (1) If a secure contract is varied in accordance with the contract or by or as a result of an enactment the landlord must, before the end of the relevant period, give the contract-holder—
- (a) a written statement of the term or terms varied, or
  - (b) a written statement of the occupation contract as varied,
- unless the landlord has given notice of the variation in accordance with section 104, 105(2) to (4) or 107(1)(b) and (2) to (6).

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- (2) The relevant period is the period of 14 days starting with the day on which the contract is varied.
- (3) The landlord may not charge a fee for providing a written statement under subsection (1).
- (4) This section is a fundamental provision which is incorporated as a term of all secure contracts.

#### Commencement Information

**I7** S. 109 in force at 1.12.2022 by S.I. 2022/906, art. 2

### 110 Failure to provide written statement etc. **E+W**

- (1) If the landlord fails to comply with a requirement under section 109 the landlord is liable to pay the contract-holder compensation under section 87.
- (2) The compensation is payable in respect of the relevant date and every day after the relevant date until—
  - (a) the day on which the landlord gives the contract-holder a written statement of the term or terms varied, or of the contract as varied, or
  - (b) if earlier, the last day of the period of two months starting with the relevant date.
- (3) Interest on the compensation is payable if the landlord fails to give the contract-holder a written statement on or before the day referred to in subsection (2)(b).
- (4) The interest starts to run on the day referred to in subsection (2)(b) at the rate prevailing under section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 (c. 20) at the end of that day.
- (5) The relevant date is the day on which the contract was varied.
- (6) Subsections (1) to (5) do not apply if the landlord's failure to comply with the requirement is attributable to an act or omission of the contract-holder.
- (7) If under section 109 the landlord gives the contract-holder a written statement of the contract as varied, sections 36 and 37 (incomplete and incorrect statements) apply to the statement as if <sup>F3</sup>, in subsection (3) of both of those sections, for the words from “starting” to the end there were substituted “starting with the day on which the contract was varied”].

#### Textual Amendments

**F3** Words in s. 110(7) substituted (7.6.2021) by Renting Homes (Amendment) (Wales) Act 2021 (asc 3), s. 19(3), Sch. 5 para. 4(a)

#### Commencement Information

**I8** S. 110 in force at 1.12.2022 by S.I. 2022/906, art. 2

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**Changes and effects yet to be applied to :**

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 20(3)(ma) inserted by [2019 anaw 2 Sch. 3 para. 4\(2\)](#)
- s. 135(2)(ia) inserted by [2019 anaw 2 Sch. 3 para. 4\(3\)](#)
- s. 186A-186C inserted by [2019 anaw 2 Sch. 3 para. 4\(1\)](#)
- s. 198A inserted by [2019 anaw 2 Sch. 3 para. 5](#)