



Renting Homes (Wales) Act 2016

2016 anaw 1

PART 5

PROVISIONS APPLYING ONLY TO SECURE CONTRACTS

CHAPTER 2

VARIATION OF CONTRACTS

103 Variation

- (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.

104 Variation of rent

- (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.
- (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.

105 Variation of other consideration

(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.

106 Variation of fundamental terms

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

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

107 Variation of supplementary and additional terms

(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.

108 Limitation on variation

- (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),
 - (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 in the contract-holder's opinion 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.

109 Written statement of variation

- (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).
- (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.

110 Failure to provide written statement etc.

- (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 references in those sections to the relevant date were to the day on which the contract was varied.