

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Renting Homes (Wales) Act 2016, SCHEDULE 10. (See end of Document for details)

PROSPECTIVE

SCHEDULE 10

(introduced by sections 209, 210 and 211)

ORDERS FOR POSSESSION ON DISCRETIONARY GROUNDS ETC.: REASONABLENESS

Introductory

- 1 This Schedule applies for the purpose of determining whether it is reasonable—
- (a) to make an order for possession under section 209 (breach of contract) or 210 (estate management grounds), or
 - (b) to make a decision under section 211 to adjourn proceedings on a possession claim or postpone the giving up of possession.

- 2 The court, in determining whether it is reasonable to make such an order or decision, or to make any other decision available to it, must (amongst other things) have regard to the circumstances set out in paragraphs 4 to 13 to the extent that the court considers them relevant (and to the extent that it is not otherwise required to have regard to those matters; for example, under the Human Rights Act 1998 (c. 42)).

- 3 Paragraph 14 sets out a circumstance, concerning local authority assistance with homelessness, which the court should not have regard to (subject to any duty to have regard to that circumstance to which the court is subject).

Circumstances as regards the contract-holder

- 4 The probable effect of the order or decision on the contract-holder (and on any permitted occupiers of the dwelling).
- 5 If the case is one in which the court may decide to postpone the giving up of possession, the likelihood that the contract-holder will comply with any terms that may be imposed.

Circumstances as regards the landlord

- 6 The probable effect of not making the order, or of the decision, on the landlord's interests, including the landlord's financial interests.
- 7 If the landlord is a community landlord, the probable effect of not making the order, or of the decision, on the landlord's ability to fulfil its housing functions, including assisting other persons in need of accommodation.

Circumstances as regards other persons

- 8 (1) The probable effect of the order or decision on—
- (a) contract-holders and permitted occupiers of other dwellings of the landlord,
 - (b) persons who have asked the landlord to provide them with housing accommodation, and

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(c) persons living, visiting or otherwise engaging in a lawful activity in the locality (and persons who wish to live, visit or engage in lawful activities in the locality).

(2) If a possession claim is made on the ground in section 157 (breach of contract), the probable effect of the circumstances set out in paragraph 10 on the persons mentioned in sub-paragraph (1).

New occupation contract offered

9 Whether the landlord has offered or undertakes to offer a new occupation contract (whether for the same dwelling or other dwellings) to one or more of the persons occupying or living in the dwelling.

Circumstances in relation to a possession claim on ground of breach of contract

10 If a possession claim is made on the ground in section 157 (breach of contract)—

- (a) the nature, frequency or duration of the breach or breaches,
- (b) the degree to which the contract-holder (or a permitted occupier of the dwelling) is responsible for the breach,
- (c) how likely it is that the breach will recur, and
- (d) any action to end, or prevent a recurrence of, the breach that was taken by the landlord before making a possession claim.

Circumstances in relation to a possession claim concerning section 55

11 If the landlord makes a possession claim relying on a breach of section 55 (anti-social behaviour and other prohibited conduct), the general public interest in restraining the conduct prohibited by that section.

Circumstances relating to estate management Ground G

12 If the landlord makes a possession claim relying wholly or partly on estate management Ground G (accommodation not required by reserve successor)—

- (a) the age of the contract-holder who succeeded to the contract under section 73,
- (b) the period during which the contract-holder has occupied the dwelling as his or her only or principal home, and
- (c) any financial or other support given by the contract-holder to the contract-holder who died (or, if the contract-holder who died was the successor of an earlier contract-holder, to that earlier contract-holder).

Circumstances relating to estate management Ground H

13 If the landlord makes a possession claim relying wholly or partly on estate management Ground H (departing joint contract-holder)—

- (a) the age of the remaining contract-holder (or each of the remaining contract-holders), and
- (b) the period during which the remaining contract-holder (or each of the remaining contract-holders) has occupied the dwellings as his or her only or principal home.

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Assistance in relation to homelessness not relevant

- 14 The likelihood that a person will be assisted under Part 2 of the Housing (Wales) Act 2014 (anaw 7) or Part 7 of the Housing Act 1996 (c. 52) (homelessness) is not a relevant circumstance (subject to any requirement to have regard to that circumstance to which the court is subject).

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