



Renting Homes (Wales) Act 2016

2016 anaw 1

PART 5

PROVISIONS APPLYING ONLY TO SECURE CONTRACTS

CHAPTER 2

VARIATION OF 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

Changes to legislation: *Renting Homes (Wales) Act 2016, Section 108 is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (ii) the fundamental provision which the term incorporates would not be incorporated or would be incorporated with modification, but ^{F1}... 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

- F1** 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

- I1** [S. 108](#) 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](#)