

RENTING HOMES (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 - Condition of Dwelling

Chapter 1

Section 89 – Application of Part

258. **Part 4** makes provisions relating to the condition of dwellings. These provisions apply to secure contracts, periodic standard contracts and fixed term standard contracts made for a period of less than seven years. Section 217 (retaliatory claims for possession to avoid obligations to repair etc.) gives the court discretion over whether to make a possession order if it is satisfied that the landlord made a possession claim to avoid complying with the obligations in Part 4.

Section 90 – Fixed term standard contracts: determining the length of term

259. This section makes provision for determining whether fixed term standard contracts are to be treated as being made for less, or more, than, seven years. This is important because the obligations set out in Part 4 apply only to fixed term standard contracts made for a term of less than seven years.
260. Subsection (4) provides that if a fixed term standard contract is for a term of more than seven years, but may be terminated by the landlord before the end of that seven year period, it will be treated as being made for a term of less than seven years. Such a situation would apply to a contract with a ‘landlord’s break clause’ that can be exercised during the first seven years of the contract.
261. Subsection (5) provides that if a fixed term standard contract gives the contract-holder an option of renewing the contract at the end of the term and, if the contract-holder chose to exercise it exercise it, the initial term and the renewed term taken together would be for a period of more than seven years, the contract is treated as being made for a period of more than seven years. But if subsection (4) applies (that is, if the contract has a break clause that can be exercised within the first seven years), the contract will be treated as being made for a period of less than seven years.