

RENTING HOMES (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 - Termination Etc. of Occupation Contracts

Chapter 9 - Possession Claims: Powers of Court

(This Chapter Applies to All Occupation Contracts)

Section 204 – Possession claims

443. **Section 204** provides that the court may not consider a possession claim where the landlord has not complied with any relevant provision set out in subsection (1). Subsection (1)(a) sets out sections of the Act which impose specific requirements or restrictions relating to possession claims. Subsection (1)(b) sets out the general requirement for possession notices to comply with section 150, and section 151 in the case of introductory standard contracts or prohibited conduct standard contracts. Subsection (2) provides that the court may dispense with these requirements if it considers it is reasonable to do so.
444. Under subsection (3), subsection (1) does not apply to an application by the landlord, where there is a sub-occupation contract, for an ‘extended possession order’ against a sub-holder under section 65(2) (that is, an order which requires that a contract-holder and a sub-holder give up possession).

Section 205 – Orders for possession

445. This section provides that the power of the court to make a possession order is limited to the grounds listed in subsection (1). Subsection (2) applies where a possession notice has been given to the contract-holder, and restricts the court to making a possession order only in relation to a ground specified in the possession notice, but subsection (3) provides that the court may allow the notice to be amended before it makes an order.

Section 206 – Effect of order for possession

446. This section deals with the effect of a possession order. Where a court makes a possession order, the contract ends on the date specified in the order, even if the contract-holder gives up possession beforehand. If the contract-holder continues to occupy the dwelling after the date set in the order, the contract ends when the contract-holder gives up possession, but if the contract-holder does not give up possession before the order is executed, the contract ends when the order is executed. In cases where an order requires that some but not all joint contract-holder(s) must be offered a new contract in respect of the relevant dwelling, the original contract ends immediately prior to the new one commencing.

Section 207 – Participation in proceedings

447. A person with ‘home rights’ (as defined by section 30(2) of the Family Law Act 1996; for example, a person living in their partner's property during a divorce or separation)

*These notes refer to the Renting Homes (Wales) Act 2016
(c.1) which received Royal Assent on 18 January 2016*

who is occupying a dwelling but who is not the contract-holder, has a right to participate in possession proceedings relating to that dwelling, as well as a right to seek an adjournment, postponement, stay or suspension of those proceedings.

Section 208 – Misrepresentation or concealment of facts used to obtain order for possession

448. The court may order a landlord to pay compensation to a contract-holder if it is satisfied that a possession order made by the court was obtained using misrepresentation or concealment of material facts.