



Renting Homes (Wales) Act 2016

2016 anaw 1

PART 9

TERMINATION ETC. OF OCCUPATION CONTRACTS

CHAPTER 12

POSSESSION CLAIMS: POWERS OF COURT IN RELATION TO ABSOLUTE GROUNDS

(THIS CHAPTER APPLIES ONLY TO STANDARD CONTRACTS)

Absolute grounds for possession relating to standard contracts

215 Notice grounds

- (1) Subsection (2) applies if—
 - (a) the landlord under a standard contract makes a possession claim on the ground in section 170 or 191 (contract-holder's notice) or section 186 (landlord's notice in connection with end of fixed term), and
 - (b) the court is satisfied that the ground is made out.
- (2) The court must make an order for possession of the dwelling (subject to any available defence based on the contract-holder's Convention rights).
- (3) Subsection (4) applies if—
 - (a) the landlord under a standard contract makes a possession claim on the ground in section 178 or 199 (landlord's notice), and
 - (b) the court is satisfied that the ground is made out.
- (4) The court must make an order for possession of the dwelling unless section 217 (retaliatory evictions) applies (and subject to any available defence based on the contract-holder's Convention rights).

(5) This section is subject to section 218 (review by the county court).

216 Serious rent arrears grounds

- (1) This section applies if the landlord under a standard contract makes a possession claim on the ground in section 181 or 187 (serious rent arrears).
- (2) If the court is satisfied that the contract-holder—
 - (a) was seriously in arrears with his or her rent on the day on which the landlord gave the contract-holder a possession notice, and
 - (b) is seriously in arrears with his or her rent on the day on which the court hears the possession claim,
 it must make an order for possession of the dwelling (subject to any available defence based on the contract-holder's Convention rights).
- (3) Section 181(2) or (as the case may be) section 187(2) applies for determining whether a contract-holder is seriously in arrears with his or her rent.
- (4) This section is subject to section 218 (review by the county court).

Retaliatory eviction: absolute ground that becomes a discretionary ground

217 Retaliatory possession claims to avoid obligations to repair etc.

- (1) This section applies if—
 - (a) a landlord under a standard contract makes a possession claim on the ground in section 178 or section 199 (landlord's notice), and
 - (b) the court considers that the claim is a retaliatory claim.
- (2) The court may refuse to make an order for possession.
- (3) A possession claim is a retaliatory claim if—
 - (a) the contract-holder has enforced or relied on the landlord's obligations under section 91 or 92, and
 - (b) the court is satisfied that the landlord has made the possession claim to avoid complying with those obligations.
- (4) The Welsh Ministers may by regulations amend this section for the purpose of providing for further descriptions of retaliatory claim.

Review and postponement

218 Review of claim made on absolute ground

- (1) This section applies if a landlord under a standard contract makes a possession claim in the county court on a ground in a section to which subsection (2) applies, and—
 - (a) the landlord is a community landlord, or
 - (b) the landlord's decision to make a possession claim on that ground is subject to judicial review.
- (2) This subsection applies to the following sections—

- (a) section 170 (contract-holder's notice: periodic standard contracts),
 - (b) section 178 (landlord's notice: periodic standard contracts),
 - (c) section 181 (serious rent arrears: periodic standard contracts),
 - (d) section 186 (landlord's notice in connection with end of fixed term),
 - (e) section 187 (serious rent arrears: fixed term standard contracts),
 - (f) section 191 (contract-holder's notice: fixed term standard contracts), and
 - (g) section 199 (landlord's notice: fixed term standard contracts).
- (3) The contract-holder may make an application in the possession proceedings for a review by the county court of the landlord's decision to make the claim.
- (4) The contract-holder may make an application under this section regardless of whether he or she requested a review by the landlord under section 202 (introductory standard contracts and prohibited conduct standard contracts).
- (5) The contract-holder may not make an application under this section on the ground that the possession claim was a retaliatory claim (within the meaning of section 217).
- (6) The county court may confirm or quash the decision to make the claim.
- (7) In considering whether to confirm or quash the decision, the county court must apply the principles applied by the High Court on an application for judicial review.
- (8) If the county court quashes the decision it may—
- (a) set aside the possession notice or (as the case may be) the landlord's notice and dismiss the possession proceedings;
 - (b) make any order the High Court could make when making a quashing order on an application for judicial review.
- (9) The contract-holder may not make an application under subsection (3) after an order for possession has been made in respect of the dwelling.

219 Powers to postpone giving up of possession

- (1) This section applies if the court makes an order for possession of a dwelling under section 215 or 216.
- (2) The court may not postpone the giving up of possession to a date later than 14 days after the making of the order, unless it appears to the court that exceptional hardship would be caused if the giving up of possession were not postponed to a later date.
- (3) The giving up of possession may not in any event be postponed to a date later than six weeks after the making of the order.
- (4) The giving up of possession may be postponed by the order for possession, or by suspending or staying execution of the order for possession.