



# Renting Homes (Wales) Act 2016

2016 anaw 1

## PART 7

### PROVISIONS APPLYING ONLY TO FIXED TERM STANDARD CONTRACTS

#### CHAPTER 3

##### VARIATION OF CONTRACTS

#### 135 Limitation on variation

- (1) A fundamental term of a fixed term standard contract which incorporates any of the fundamental provisions to which subsection (2) applies may not be varied (other than by or as a result of an enactment).
- (2) This subsection applies to the following fundamental provisions—
  - (a) section 134(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),
  - (h) section 158 (securing contract by use of false statement),
  - (i) section 186(2) and (4) (restriction on ending fixed term standard contract during first six months of occupation),
  - (j) section 196 (restriction on use of landlord's break clause in a fixed term standard contract during first four months of occupation), and
  - (k) section 198 (breach of deposit requirements: contracts with a landlord's break clause).

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*Status: This is the original version (as it was originally enacted).*

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- (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
    - (ii) the fundamental provision which the term incorporates would not be incorporated or would be incorporated with modification, but in the contract-holder’s opinion 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 fixed term standard contract is of no effect if it would render a 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 fixed term standard contracts, but subsection (2)(k) is not incorporated as a term of a contract which does not have a contract-holder’s break clause; section 20 provides that this section—
- (a) must be incorporated, and
  - (b) must not be incorporated with modifications.