



# Renting Homes (Wales) Act 2016

2016 anaw 1

## PART 6

### PROVISIONS APPLYING ONLY TO PERIODIC STANDARD CONTRACTS

#### CHAPTER 3

##### VARIATION OF CONTRACTS

#### **122 Variation**

- (1) A periodic standard contract may not be varied except—
  - (a) in accordance with sections 123 to 126, or
  - (b) by or as a result of an enactment.
- (2) A variation of a periodic standard contract (other than by or as a result of an enactment) must be in accordance with section 127.
- (3) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts; section 20 provides that subsections (1)(b) and (2) of this section—
  - (a) must be incorporated, and
  - (b) must not be incorporated with modifications.

#### **123 Variation of rent**

- (1) The landlord may vary the rent payable under a periodic standard contract by giving the contract-holder a notice setting out a new rent to take effect on the date specified in the notice.
- (2) The period between the day on which the notice is given to the contract-holder and the specified date may not be less than two months.
- (3) Subject to that—
  - (a) the first notice may specify any date, and

(b) subsequent notices must specify a date which is not less than one year after the last date on which a new rent took effect.

(4) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts under which rent is payable.

#### **124 Variation of other consideration**

(1) Where consideration other than rent is payable under a periodic standard contract, the amount of consideration may be varied—

- (a) by agreement between the landlord and the contract-holder, or
- (b) by the landlord in accordance with subsections (2) to (4).

(2) The landlord may give the contract-holder a notice setting out a new amount of consideration to take effect on the date specified in the notice.

(3) The period between the day on which the notice is given to the contract-holder and the specified date may not be less than two months.

(4) Subject to that—

- (a) the first notice may specify any date, and
- (b) subsequent notices must specify a date which is not less than one year after the last date on which a new amount of consideration took effect.

(5) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts under which consideration other than rent is payable.

#### **125 Variation of other terms**

(1) The fundamental terms, supplementary terms and additional terms of a periodic standard contract may be varied (subject to section 127)—

- (a) by agreement between the landlord and the contract-holder, or
- (b) by the landlord in accordance with section 126.

(2) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts; but subsection (1)(b) is not incorporated as a term of a periodic standard contract which does not incorporate section 173 (landlord's notice to end contract).

#### **126 Variation by landlord of other terms: notice procedure**

(1) The landlord may give the contract-holder notice that unless the contract-holder consents to a variation of the contract under section 125, the landlord will make a possession claim on the ground in section 178 (landlord's notice).

(2) But the landlord may not give notice under subsection (1) at any time when the landlord is prevented from giving the contract-holder notice under section 173 (landlord's notice to end contract) by section 175 (notice may not be given during first four months of occupation), section 176 (breach of information requirements) or section 177 (breach of security or deposit requirements).

(3) A notice under subsection (1) must—

- (a) specify the nature of the variation and the date on which the variation is to take effect, and

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- (b) inform the contract-holder that the notice also has effect as a notice under section 173 (landlord's notice to end contract).
- (4) The date specified as the date on which the variation is to take effect may not be less than two months after the day on which the notice is given to the contract-holder.
- (5) If the contract-holder does not give written consent to the variation on or before the date on which it is to take effect, the landlord may make a possession claim on the ground in section 178 (landlord's notice).
- (6) If the landlord satisfies the requirements of this section, the landlord is to be treated for the purposes of making the possession claim as having given notice to end the contract under section 173 (and section 179(1)(a) is to be read as if it referred to the date specified in the notice in accordance with subsection (3)(a) of this section).
- (7) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts, except periodic standard contracts which do not incorporate section 173 (landlord's notice to end contract).

## **127 Limitation on variation**

- (1) A fundamental term of a periodic standard 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 122(1)(b) and (2) and this section,
  - (b) section 45 (requirement to use deposit scheme) and section 177 (breach of deposit requirements),
  - (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 175 (restriction on giving landlord's notice under a periodic standard contract during first four months of occupation), and
  - (j) paragraph 7 of Schedule 4 (variation of secure contract addressed in written statement of introductory standard contract).
- (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;

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- (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 periodic 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 periodic standard contracts; section 20 provides that this section—
  - (a) must be incorporated, and
  - (b) must not be incorporated with modifications.

### **128 Written statement of variation**

- (1) If a periodic standard contract is varied in accordance with the contract or by or as a result of an enactment the landlord must, before the end of the relevant period, give the contract-holder—
  - (a) a written statement of the term or terms varied, or
  - (b) a written statement of the contract as varied,
 unless the landlord has given notice of the variation in accordance with section 123, 124(2) to (4) or 126(1) to (4).
- (2) The relevant period is the period of 14 days starting with the day on which the contract is varied.
- (3) The landlord may not charge a fee for providing a written statement under subsection (1).
- (4) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts.

### **129 Failure to provide written statement etc.**

- (1) If the landlord under a periodic standard contract fails to comply with a requirement under section 128 the landlord is liable to pay the contract-holder compensation under section 87.
- (2) The compensation is payable in respect of the relevant date and every day after the relevant date until—
  - (a) the day on which the landlord gives the contract-holder a written statement of the term or terms varied, or of the contract as varied, or
  - (b) if earlier, the last day of the period of two months starting with the relevant date.
- (3) Interest on the compensation is payable if the landlord fails to give the contract-holder a written statement on or before the day referred to in subsection (2)(b).
- (4) The interest starts to run on the day referred to in subsection (2)(b) at the rate prevailing under section 6 of the [Late Payment of Commercial Debts \(Interest\) Act 1998 \(c. 20\)](#) at the end of that day.

- (5) The relevant date is the day on which the contract was varied.
- (6) Subsections (1) to (5) do not apply if the landlord's failure to comply with the requirement is attributable to an act or omission of the contract-holder.
- (7) If under section 128 the landlord gives the contract-holder a written statement of the contract as varied, sections 36 and 37 (incomplete and incorrect statements) apply to the statement as if references in those sections to the relevant date were to the day on which the contract was varied.