

RENTING HOMES (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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)

Section 215 – Notice grounds

465. Where a landlord has made a possession claim under the term of the contract incorporating section 170 or 191 (which, respectively, concern failure to give up possession after giving a contract-holder's notice under a periodic standard contract or a fixed term standard contract), or section 186 (notice in connection with the end of a fixed term standard contract), the court must make a possession order, subject to any available defence based on the contract-holder's human rights.
466. The court must also make an order for possession where the landlord has made a possession claim under the term of the contract incorporating section 178 or 199 (which apply, respectively, to a landlord's notice under a periodic standard contract or a fixed term standard contract). This is subject to any available defence based on the contract-holder's human rights, and to section 217 (retaliatory evictions). In the case of certain landlords, the contract-holder may, under section 218, be able to seek a review of the landlord's decision to make the possession claim.

Section 216 – Serious rent arrears grounds

467. A court must make a possession order against a contract-holder who has a standard contract where it is satisfied that the serious rent arrears ground (section 181 (periodic standard contracts) or 187 (fixed term standard contracts)) has been met. That is, the contract-holder is in serious arrears on the date the landlord made the claim and on the date the possession claim is heard by the court. This is subject to any available defence based on the contract-holder's human rights. In the case of certain landlords, the contract-holder may be able to seek a review of the landlord's decision under section 218.

Section 217 – Retaliatory possession claims to avoid obligations to repair etc.

468. Where a landlord has given a landlord's notice and makes a possession claim under the term of the contract incorporating section 178 (periodic standard contracts) or section 199 (fixed term standard contracts), the court may choose not to make a possession order if it considers the claim to be a retaliatory claim; that is, the possession claim has been made by the landlord to avoid their obligations relating to repair of the dwelling and keeping it fit for human habitation under the terms of the occupation contract incorporating sections 91 and 92. Note that this provision effectively does not apply in relation to a fixed term standard contract for a term of seven years or more, as sections 91 and 92 are not automatically incorporated into such contracts.

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

469. Subsection (4) provides a power for the Welsh Ministers to make regulations amending the section in order to provide for further descriptions of retaliatory claim.

Section 218 – Review of claim made on absolute ground

470. This section applies to a landlord who is a community landlord or whose decision to make a possession claim is subject to judicial review. This is in broadly identical terms to section 213, addressed above.

Section 219 – Powers to postpone giving up of possession

471. This is in broadly identical terms to section 214, addressed above.