

SCHEDULE 6

LEASES

PART 2

DURATION OF LEASE AND TREATMENT OF OVERLAPPING LEASES

Tenant holding over: new lease backdated to previous year

- 8 (1) This paragraph applies where—
- (a) the tenant under a lease (“the old lease”) continues in occupation after the date on which, under its terms, the lease terminates (“the contractual termination date”),
 - (b) the tenant is granted a lease of the same or substantially the same premises (“the new lease”),
 - (c) the new lease is granted on a date falling more than one year after the contractual termination date, and
 - (d) the term of the new lease is expressed to begin on a date falling within the period—
 - (i) beginning with the contractual termination date, and
 - (ii) ending with the latest anniversary of that date falling before the date on which the new lease is granted, (“the whole years of holdover”).
- (2) The term of the new lease is treated for the purposes of this Act as beginning with the date on which it is expressed to begin.
- (3) The rent payable under the new lease in respect of the period—
 - (a) beginning with the date on which the new lease is expressed to begin, and
 - (b) ending at the end of the whole years of holdover,is treated for the purposes of this Act as reduced by the amount of taxable rent payable in respect of the holdover tenancy for that period (but it cannot be treated as being reduced to a negative amount).
- (4) The holdover tenancy is treated for the purposes of this Act as a lease for a fixed term ending at the end of the whole years of holdover.
- (5) For the purposes of this paragraph—
 - (a) “holdover tenancy” means—
 - (i) the old lease if it continues beyond the contractual termination date (whether by virtue of the lease being granted for a fixed term and thereafter until terminated or by operation of law), or
 - (ii) any other tenancy of the same or substantially the same premises by virtue of which the tenant under the old lease continues in occupation after the contractual termination date;
 - (b) rent is “taxable” if or to the extent that it is taken into account in determining the tax chargeable in respect of the acquisition of the holdover tenancy.