

SCHEDULE 1

(as introduced by section 4)

PERMITTED PAYMENTS

Rent

- 1 (1) A payment of rent under a standard occupation contract is a permitted payment.
- (2) But, subject as follows, if the amount of rent payable in respect of a relevant period (“P1”) is more than the amount of rent payable in respect of another relevant period (“P2”), the additional amount payable in respect of P1 is a prohibited payment.
- (3) Where there is more than one relevant period other than P1, P2 is whichever one of those other relevant periods is the period in respect of which the lowest amount of rent is payable.
- (4) In a case where the duration of one relevant period (P1) differs from that of another (P2), to determine—
 - (a) whether a prohibited payment has been made by virtue of sub-paragraph (2), and
 - (b) if so, the amount of the prohibited payment,
 the following steps are to be taken.

Step 1

For each of P1 and P2, the applicable daily rate of rent (the “ADR”) is to be calculated (and in the case of an amount that is not a whole number of pennies, then rounded up to the nearest penny) by dividing the total amount of rent for the period by the number of days in the period.

Step 2

If there is no difference between the ADR for each period, there is no prohibited payment.

Step 3

But if the ADR for P1 differs from that for P2, determine which of the rates is the lower (the “lower ADR”) and which is the higher (the “higher ADR”).

Step 4

For whichever period in respect of which the higher ADR is payable, calculate the amount of rent that would have been payable for it if rent had been payable in respect of that period at the lower ADR.

Step 5

Calculate the difference between the amount of rent calculated under Step 4, and the amount of rent actually payable in respect of the period in which the higher ADR is payable.

The resulting amount is a prohibited payment by virtue of sub-paragraph (2).

- (5) Where—
 - (a) rent is payable monthly in respect of P1 and P2, or P1 and P2 are both periods calculated by reference to the same number of calendar months, and
 - (b) the amount of rent payable in respect of P1 and P2 is the same,
 P1 and P2 are to be treated for the purposes of Step 2 in sub-paragraph (4) as having the same ADR.

- (6) No account is to be taken of any difference between the rent payable in respect of P1 and another relevant period to the extent that it results from a permitted variation of the rent.
- (7) In sub-paragraph (6), “permitted variation”, in relation to rent payable under a standard occupation contract, means a variation made—
 - (a) by agreement between the landlord and the contract-holder;
 - (b) pursuant to a term in the contract which provides for variation of the rent under the contract;
 - (c) by or as a result of an enactment.
- (8) In this paragraph—
 - (a) “enactment” means an enactment (whenever enacted or made) comprised in, or in an instrument made under—
 - (i) an Act of Parliament,
 - (ii) a Measure or an Act of the National Assembly for Wales, and
 - (b) “relevant period”, in relation to a standard occupation contract, means any period in respect of which a payment of rent falls to be made.

Security deposit

- 2 (1) A payment of a security deposit is a permitted payment.
- (2) In this Act, “security deposit” means money paid as security for—
 - (a) the performance of any obligations of a contract-holder, or
 - (b) the discharge of any liability,
 arising under or in connection with an occupation contract.
- (3) But if the amount of the security deposit exceeds the prescribed limit, the amount of the excess is a prohibited payment.
- (4) In sub-paragraph (3), the “prescribed limit” means a limit specified by, or determined in accordance with, regulations.

Holding deposit

- 3 A payment of a holding deposit is a permitted payment.
- 4 A holding deposit is an amount which—
 - (a) before the grant of a standard occupation contract, is paid to a landlord or a letting agent;
 - (b) is paid for the purpose of reserving a right of first refusal in relation to the granting of the contract, subject to suitability checks to be carried out as to the prospective contract-holder and agreement between the parties to enter into the contract;
 - (c) does not exceed an amount equivalent to one week’s rent under the contract.
- 5 Where an amount required in purported compliance with this paragraph exceeds an amount equivalent to one week’s rent under the contract, the amount of the excess is a prohibited payment, with the remainder falling to be treated under Schedule 2.

Payment in the event of default

- 6 (1) A payment that is required, under a standard occupation contract, to be made in the event of a default by the contract-holder is a permitted payment, but this is subject to sub-paragraph (3).
- (2) In this paragraph, “default” means—
- (a) a failure by the contract-holder to make a payment by the due date to the landlord, or
 - (b) a breach by the contract-holder of a term of the contract.
- (3) In the case of a default to which sub-paragraph (4) applies, if the amount of a payment required in the event of the default exceeds the prescribed limit, the amount of the excess is a prohibited payment.
- (4) This sub-paragraph applies to—
- (a) a failure by the contract-holder to make a payment of rent by the due date to the landlord;
 - (b) any additional description of default which is specified by regulations.
- (5) In sub-paragraph (3), the “prescribed limit” means a limit specified by, or determined in accordance with, regulations.

Payment in respect of council tax

- 7 (1) A payment that a contract-holder is required to make to a billing authority in respect of council tax is a permitted payment if the contract-holder is liable to make the payment by virtue of any of sections 6, 8 or 9 of the [Local Government Finance Act 1992 \(c. 14\)](#).
- (2) In this paragraph “billing authority” has the same meaning as in Part 1 of the Local Government Finance Act 1992 (see section 1(2) of that Act).

Payment in respect of provision of utilities

- 8 (1) A payment for or in connection with the provision of a utility is a permitted payment if—
- (a) it is required under a standard occupation contract, and
 - (b) it is made in respect of the dwelling subject to the contract.
- (2) A payment towards energy efficiency improvements under a green deal plan (within the meaning of section 1 of the [Energy Act 2011 \(c.16\)](#)) is a permitted payment if—
- (a) it is required under a standard occupation contract, and
 - (b) it is made in respect of the dwelling subject to the contract.
- (3) In this Act “utility” means any of the following—
- (a) electricity, gas or other fuel;
 - (b) water or sewerage.

Payment in respect of television licence

- 9 (1) A payment that a contract-holder is required to make to the British Broadcasting Corporation in respect of a television licence is a permitted payment if the contract-holder is required by the contract to make the payment.

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

- (2) In this paragraph “television licence” means a licence for the purposes of section 363 of the [Communications Act 2003 \(c. 21\)](#).

Payment in respect of communication service

- 10 (1) A payment for or in connection with a communication service is a permitted payment if—
- (a) it is required under a standard occupation contract, and
 - (b) it is made in respect of the dwelling subject to the contract.
- (2) In this paragraph, a “communication service” means a service enabling any of the following to be used—
- (a) a telephone other than a mobile telephone;
 - (b) the internet;
 - (c) cable television;
 - (d) satellite television.

Changing the meaning of “permitted variation” in paragraph 1

- 11 If regulations made under section 7 amend this Schedule so as to change the meaning of “permitted variation” for the purposes of paragraph 1, they may also make consequential amendments to Chapter 3 of Part 6 and Chapter 3 of Part 7 of the [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#) (variation of standard occupation contracts).

SCHEDULE 2

(as introduced by section 9)

TREATMENT OF HOLDING DEPOSIT

Application

- 1 (1) This Schedule applies where a holding deposit is paid in respect of a standard occupation contract.
- (2) References in this Schedule to a contract-holder, in relation to a holding deposit, are to the person whose right of first refusal has been reserved by the holding deposit.

Meaning of “deadline for agreement”

- 2 (1) In this Schedule, the “deadline for agreement” means the fifteenth day of the period beginning with the day on which the holding deposit is paid.
- (2) But the parties may agree in writing that a different day is to be the deadline for agreement.
- (3) Regulations may amend sub-paragraph (1) to change the deadline for agreement.

Requirement to repay holding deposit

- 3 Subject as follows, the person who received the holding deposit must repay it if—

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

- (a) the parties enter into the contract before the deadline for agreement, or
 - (b) the parties fail to enter into the contract before the deadline for agreement.
- 4 The deposit must be repaid within the period of 7 days beginning with—
- (a) where paragraph 3(a) applies, the day on which the contract is made, or
 - (b) where paragraph 3(b) applies, the deadline for agreement.

Exceptions

- 5 Paragraph 3(a) does not apply to the extent that the amount of the deposit is applied—
- (a) towards the first payment of rent under the contract, or
 - (b) towards the payment of a security deposit under the contract.
- 6 If all or part of the holding deposit is applied in accordance with paragraph 5(b), the amount applied is treated for the purposes of section 45 of the [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#) (requirement to use deposit schemes) as having been paid on the date the contract is made.
- 7 Paragraph 3(b) does not apply if the contract-holder provides false or misleading information to the landlord or letting agent and—
- (a) the landlord is reasonably entitled to take into account the difference between the information provided by the contract-holder and the correct information in deciding whether to grant a contract to the contract-holder, or
 - (b) the landlord is reasonably entitled to take the contract-holder's action in providing false or misleading information into account in deciding whether to grant such a contract.
- 8 Paragraph 3(b) does not apply if the contract-holder notifies the landlord or letting agent before the deadline for agreement that the contract-holder has decided not to enter into a contract.
- 9 Paragraph 3(b) does not apply in relation to a holding deposit paid to a landlord if—
- (a) the landlord takes all reasonable steps to enter into a contract before the deadline for agreement, but
 - (b) the contract-holder fails to take all reasonable steps to enter into a contract before that date.
- 10 Paragraph 3(b) does not apply in relation to a holding deposit paid to a letting agent if—
- (a) the agent takes all reasonable steps to assist the landlord to enter into a contract before the deadline for agreement, and
 - (b) the landlord takes all reasonable steps to enter into a contract before that date, but
 - (c) the contract-holder fails to take all reasonable steps to enter into a contract before that date.

Supplemental provision about exceptions in paragraphs 8 to 10

- 11 (1) The exceptions specified in paragraphs 8, 9 and 10 may not be relied upon unless the condition in sub-paragraph (2) is met.

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

- (2) The condition is that, before payment of the holding deposit, information within sub-paragraph (3) has been provided to the contract-holder by either the landlord or (if one has been instructed by the landlord in relation to the contract) the letting agent.
- (3) Information within this sub-paragraph is information specified in, or of a description specified in, regulations.
- (4) Information is not to be treated as having been provided to the contract-holder, for the purposes of sub-paragraph (1), unless it has been provided in whatever way (if any) is specified in the regulations.
- (5) In a case where a landlord has instructed a letting agent in relation to a contract, the exception in paragraph 9 may, in addition, not be relied upon unless the agent takes all reasonable steps to assist the landlord to enter into a contract before the deadline for agreement.

SCHEDULE 3

(as introduced by section 20)

AMENDMENTS TO THE RENTING HOMES (WALES) ACT 2016

- 1 The [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#) is amended as follows.

Restriction on giving notice for possession: periodic standard contracts

- 2 After section 177 (restriction on landlord under a periodic contract giving notice for possession: breach of security and deposit requirements), insert—

“177A Restrictions on section 173: prohibited payments and holding deposits

- (1) The landlord may not give a notice under section 173 at a time when—
 - (a) the landlord has required a prohibited payment (within the meaning given by the [Renting Homes \(Fees etc.\) \(Wales\) Act 2019](#)) to be made as described in section 2 or 3 of that Act,
 - (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
 - (c) the prohibited payment has not been repaid.
- (2) The landlord may not give a notice under section 173 at a time when—
 - (a) a holding deposit (within the meaning given by the [Renting Homes \(Fees etc.\) \(Wales\) Act 2019](#)) paid in relation to the contract has not been repaid, and
 - (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to that Act.
- (3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—
 - (a) a payment of rent under the contract;
 - (b) a payment required as security in respect of the contract.

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

- (4) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts which incorporate section 173 as a term of the contract.”
- 3 In section 126 (notice procedure for variation, under section 125, of occupation contract by landlord), in subsection (2), for “or section 177 (breach of security and deposit requirements)” substitute “, section 177 (breach of security and deposit requirements) or section 177A (prohibited payments and holding deposits)”.

Restrictions on giving notice in connection with end of fixed term standard contracts

- 4 (1) After section 186 (landlord’s notice in connection with end of term), insert—

“186A Restrictions on section 186: breach of information requirements

- (1) If the landlord does not comply with section 31(1) or (2) (duty to provide written statement of contract), the landlord may not give notice under section 186 before the end of the restricted period.
- (2) The restricted period is six months starting with the day on which the landlord gives a written statement of the contract to the contractholder.
- (3) The landlord may not give the contract-holder notice under section 186 at any time when the landlord has not provided a notice required under section 39 (duty to provide information).
- (4) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts which incorporate section 186(1) as a term of the contract.

186B Restrictions on section 186: breach of security and deposit requirements

- (1) The landlord may not give notice under section 186 at a time when security required by the landlord in a form not permitted by section 43 has not been returned to the person by whom it was given.
- (2) The landlord may not give notice under section 186 at a time when any of subsections (3) to (5) apply unless—
- (a) a deposit paid in connection with the contract has been returned to the contract-holder (or any person who paid the deposit on his or her behalf) either in full or with such deductions as may have been agreed, or
- (b) an application to the county court has been made under paragraph 2 of Schedule 5 and has been determined by the county court, withdrawn, or settled by agreement between the parties.
- (3) A deposit has been paid in connection with the contract but the initial requirements of an authorised deposit scheme have not been complied with.
- (4) A deposit has been paid in connection with the contract but the landlord has not provided the information required by section 45(2)(b).
- (5) A deposit paid in connection with the contract is not being held in accordance with an authorised deposit scheme.

- (6) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts which incorporate section 186(1) as a term of the contract; and section 20 provides that this section—
- (a) must be incorporated, and
 - (b) must not be incorporated with modifications.

186C Restrictions on section 186: prohibited payments and holding deposits

- (1) The landlord may not give a notice under section 186 at a time when—
 - (a) the landlord has required a prohibited payment (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) to be made as described in section 2 or 3 of that Act,
 - (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
 - (c) the prohibited payment has not been repaid.
 - (2) The landlord may not give a notice under section 186 at a time when—
 - (a) a holding deposit (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) paid in relation to the contract has not been repaid, and
 - (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to that Act.
 - (3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—
 - (a) a payment of rent under the contract;
 - (b) a payment required as security in respect of the contract.
 - (4) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts which incorporate section 186(1) as a term of the contract.”
- (2) In section 20 (incorporation and modification of fundamental provisions), in subsection (3), after paragraph (m), insert—
- “(ma) section 186B (breach of deposit requirements: restriction on giving notice in connection with end of fixed term standard contracts),”.
- (3) In section 135 (limitation on variation), in subsection (2), after paragraph (i), insert—
- “(ia) section 186B (breach of deposit requirements: restriction on giving notice in connection with end of fixed term standard contracts),”.
- (4) For section 183(2) (relevance of events under fixed term standard contract), substitute—
- “(2) Sections 179 and 180 apply to a notice under section 186(1), and to a possession claim made on the ground in section 186(5) in reliance on such a notice, as they apply to a notice under section 173, and to a possession claim made on the ground in section 178 in reliance on a notice under section 173.”

Restriction on using landlord's break clause in fixed term standard contracts

- 5 After section 198 (restrictions on use of landlord's break clause: security and deposit requirements), insert—

“198A Restrictions on use of landlord's break clause: prohibited payments and holding deposits

- (1) The landlord may not give notice under a landlord's break clause at a time when—
 - (a) the landlord has required a prohibited payment (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) to be made as described in section 2 or 3 of that Act,
 - (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
 - (c) the prohibited payment has not been repaid.
- (2) The landlord may not give notice under a landlord's break clause at a time when—
 - (a) a holding deposit (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) paid in relation to the contract has not been repaid, and
 - (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to that Act.
- (3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—
 - (a) a payment of rent under the contract;
 - (b) a payment required as security in respect of the contract.
- (4) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts with a landlord's break clause.”

Restrictions on a court hearing landlord's claim for possession

- 6 In section 204 (restrictions on court hearing a landlord's claims for possession)—
- (a) in subsection (1)(a)(vii), after “177” insert “, 177A”;
 - (b) in subsection (1)(a)(ix), for “section 186”, substitute “sections 186, 186A, 186B and 186C”;
 - (c) in subsection (1)(a)(xiii), after “198” insert “, 198A”.

Miscellaneous consequential provision

- 7 In Schedule 1 (overview of fundamental provisions incorporated as terms of occupation contracts)—
- (a) in Part 2 (periodic standard contracts), in table 4, in the notes for the entry for sections 173 to 180 (termination by notice given by landlord)—
 - (i) for “and 176” substitute “, 176, 177 and 177A”;
 - (ii) for “section 176” substitute “section 177”;
 - (b) in Part 3 (fixed term standard contracts), in table 5—

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

- (i) in the first column of the entry for section 186, for “Section 186”, insert “Sections 186, 186A, 186B and 186C”;
- (ii) in the notes for the entry for section 186, at the end, insert “If section 186(1) is not incorporated, sections 186A, 186B and 186C do not apply. If a contract incorporates section 186(1), sections 186A, 186B and 186C must be incorporated, and section 186B must be incorporated without modification.”;
- (iii) in the notes for the entry for sections 195 to 201 (termination by notice given by landlord under landlord’s break clause), for “section 196 (breach of deposit rules)” substitute “section 198 (breach of security and deposit requirements)”.