

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tenant Fees Act 2019, Cross Heading: Payment in the event of a default. (See end of Document for details)

PROSPECTIVE

SCHEDULES

SCHEDULE 1

PERMITTED PAYMENTS

Payment in the event of a default

- 4 (1) Subject to sub-paragraphs (3) to (8), a payment in the event of a relevant default by the tenant is a permitted payment if the tenancy agreement requires the payment to be made.
- (2) In this paragraph “relevant default” means—
- (a) the loss of a key to, or other security device giving access to, the housing to which the tenancy relates, or
 - (b) a failure to make a payment of rent in full before the end of the period of 14 days beginning with the date (“the due date”) on which the payment is required to be made in accordance with the tenancy agreement.
- (3) If, in the case of a payment required to be made to a landlord or letting agent in respect of a relevant default within sub-paragraph (2)(a), the amount of the payment exceeds the costs which—
- (a) are reasonably incurred by the landlord or letting agent as a result of the default, and
 - (b) are supported by evidence in writing which is provided to the person on whom the requirement to make the payment is imposed,
- the amount of the excess is a prohibited payment.
- (4) If, in the case of a payment required to be made to a landlord or a letting agent in respect of a relevant default within sub-paragraph (2)(b), the amount of the payment exceeds the amount determined in accordance with sub-paragraph (5), the amount of the excess is a prohibited payment.
- (5) The amount referred to in sub-paragraph (4) is the aggregate of the amounts found by applying, in relation to each day after the due date for which the rent remains unpaid, an annual percentage rate of 3% above the Bank of England base rate to the amount of rent that remains unpaid at the end of that day.
- (6) In sub-paragraph (5) “Bank of England base rate” means—
- (a) the percentage rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
 - (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent percentage rate determined by the Treasury under that section.

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(7) If—

- (a) a landlord requires a relevant person to make a payment to the landlord in respect of a relevant default within sub-paragraph (2)(b), and
- (b) a letting agent subsequently requires a payment to be made to the letting agent in respect of the same default,

the payment referred to in paragraph (b) is a prohibited payment.

(8) If—

- (a) a letting agent requires a relevant person to make a payment to the letting agent in respect of a relevant default within sub-paragraph (2)(b), and
- (b) a landlord subsequently requires a payment to be made to the landlord in respect of the same default,

the payment referred to in paragraph (b) is a prohibited payment.

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A payment of damages for breach of a tenancy agreement or an agreement between a letting agent and a relevant person is a permitted payment.

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