

SCHEDULE 2

EXCEPTIONS TO SECTION 7

PART 2

TENANCIES AND LICENCES WITHIN SECTION 7 THAT ARE NOT OCCUPATION CONTRACTS UNLESS NOTICE IS GIVEN

The rule

- 3 (1) A tenancy or licence within section 7, but to which sub-paragraph (2) applies, is not an occupation contract unless the notice condition is met.
- (2) This sub-paragraph applies to a tenancy or licence—
- (a) which confers the right to occupy a dwelling for the purposes of a holiday,
 - (b) which relates to the provision of accommodation in a care institution (see paragraph 4),
 - (c) which is a temporary expedient (see paragraph 5), or
 - (d) to which the shared accommodation exception applies (see paragraph 6).
- (3) The notice condition is met if, before or at the time when the tenancy or licence is made, the landlord gives a notice to the person with whom it is made stating that it is to be an occupation contract.

Meaning of “care institution”

- 4 “Care institution” means—
- (a) a health service hospital within the meaning of the [National Health Service \(Wales\) Act 2006 \(c. 49\)](#) (see section 206(1) of that Act),
 - (b) an independent hospital, a care home or a residential family centre within the meaning of the [Care Standards Act 2000 \(c. 14\)](#) (see sections 2 to 4 of that Act), or
 - (c) a children’s home in respect of which a person is registered under Part 2 of that Act.

Meaning of “temporary expedient”

- 5 (1) A tenancy or licence is a temporary expedient if it is made as a temporary expedient with a person who entered the dwelling to which it relates (or any other dwelling) as a trespasser.
- (2) It is irrelevant whether or not, before the beginning of the tenancy or licence, another tenancy or licence to occupy the dwelling (or any other dwelling) had been made with the person.
- (3) A tenancy or licence which arises under section 238 is not a temporary expedient.

Meaning of “shared accommodation”

- 6 (1) The shared accommodation exception applies if—

Status: This is the original version (as it was originally enacted).

- (a) the terms of the tenancy or licence provide for the tenant or licensee to share any accommodation with the landlord, and
 - (b) immediately before the tenancy or licence is made the landlord occupies as the landlord's only or principal home a dwelling which includes all or part of the shared accommodation.
- (2) But the exception applies under sub-paragraph (1) only while the person who is from time to time the landlord in relation to the tenancy or licence continues to occupy such a dwelling as that person's only or principal home.
- (3) The shared accommodation exception also applies if—
- (a) the terms of the tenancy or licence provide for the tenant or licensee to share any accommodation with another person (“the beneficiary”),
 - (b) immediately before the tenancy or licence is made the beneficiary occupies as his or her only or principal home a dwelling which includes all or part of the shared accommodation,
 - (c) that dwelling is subject to a trust, and
 - (d) under the trust the beneficiary—
 - (i) is entitled to an interest in the dwelling, and
 - (ii) by reason of that interest, is entitled to occupy the dwelling.
- (4) But the exception applies under sub-paragraph (3) only while the beneficiary continues to occupy such a dwelling as the beneficiary's only or principal home.
- (5) A tenant or licensee shares accommodation with the landlord or beneficiary if the tenant or licensee has the use of it in common with the landlord or beneficiary (whether or not in common with others).
- (6) “Accommodation” does not include an area used for storage, or a staircase, passage, corridor or other means of access.
- (7) If two or more persons are the landlord in relation to a tenancy or licence, references to the landlord are references to any one of them.