

## SCHEDULE 6

### LEASES

#### PART 3

#### RENT AND OTHER CONSIDERATION

##### *Loan or deposit in connection with grant or assignment of lease*

- 19 (1) Where, under arrangements made in connection with the grant of a lease—
- (a) the tenant, or any person connected with or acting on behalf of the tenant, pays a deposit, or makes a loan, to any person, and
  - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the tenant, or on the death of the tenant,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Act to be consideration other than rent given for the grant of the lease.
- (2) Where, under arrangements made in connection with the assignment of a lease—
- (a) the assignee, or any person connected with or acting on behalf of the assignee, pays a deposit, or makes a loan, to any person, and
  - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the assignee, or on the death of the assignee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Act to be consideration other than rent given for the assignment of the lease.
- (3) Sub-paragraph (1) or (2) does not apply in relation to a deposit if the amount that would otherwise fall within the sub-paragraph in question in relation to the grant or assignment of the lease is not more than twice the relevant maximum rent.
- (4) The relevant maximum rent is—
- (a) in relation to the grant of a lease, the highest amount of rent payable in respect of any period of 12 consecutive months in the first 5 years of the term of the lease;
  - (b) in relation to the assignment of a lease, the highest amount of rent payable in respect of any period of 12 consecutive months falling within the first 5 years of the term remaining outstanding as at the date of the assignment.
- (5) In determining the highest amount of rent for the purposes of sub-paragraph (4)—
- (a) disregard paragraphs 7(2) and 8(3) (where further lease granted, deemed reduction of rent for overlap period), and
  - (b) if necessary, take into account any amounts determined in accordance with paragraph 10(2)(b) (determining contingent, uncertain or unascertained rent).
- (6) Tax is not chargeable by virtue of this paragraph if it would be chargeable only as a result of the application of paragraph 34 (which excludes the zero rate band in cases where the relevant rent attributable to non-residential property is not less than £1,000 a year) to an amount of chargeable consideration determined under sub-paragraph (1) or (2).