

RENTING HOMES (FEES ETC.) (WALES) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Prohibitions of Certain Payments

Schedule 1 - Permitted payments

Rent

20. The Schedule does not define “rent”, on the basis that the term has a commonly understood meaning.
21. It does however regulate variations in the rent payable in relation to a standard occupation contract. The intention behind this is to avoid attempts to circumvent the restrictions in the Act by, say, having fluctuating rent amounts which are used to disguise what would otherwise be prohibited payments. The Schedule achieves this by specifying that, where any payment of rent for one period is greater than the amount of rent payable in any other period of equivalent duration, the difference between the two amounts is a prohibited payment. In circumstances where the rent payable by a contract-holder differs in relation to two periods of a different duration, paragraph 1(4) sets out rules for determining whether the difference in amount is a prohibited payment and, if so, the amount of the prohibited payment.
22. There is an exception to the general rule set out in this paragraph, one which allows for changes in the amount of rent resulting from what is referred to in paragraph 1(7) of the Schedule as a “permitted variation” of rent. A “permitted variation” is one made by agreement between the landlord and the contract-holder, or under a term in the contract providing for rent variation, or by or as a result of an enactment (for instance if another Act required a rent variation, this would be a permitted variation). In order to build in some flexibility, there is power at paragraph 11 of the Schedule to make regulations to change the meaning of “permitted variation” for this purpose.