

## 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.

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- (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).