

## SCHEDULE 3

(as introduced by section 20)

### AMENDMENTS TO THE RENTING HOMES (WALES) ACT 2016

- 1 The [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#) is amended as follows.

#### *Restriction on giving notice for possession: periodic standard contracts*

- 2 After section 177 (restriction on landlord under a periodic contract giving notice for possession: breach of security and deposit requirements), insert—

#### **“177A Restrictions on section 173: prohibited payments and holding deposits**

- (1) The landlord may not give a notice under section 173 at a time when—
- (a) the landlord has required a prohibited payment (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) to be made as described in section 2 or 3 of that Act,
  - (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
  - (c) the prohibited payment has not been repaid.
- (2) The landlord may not give a notice under section 173 at a time when—
- (a) a holding deposit (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) paid in relation to the contract has not been repaid, and
  - (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to that Act.
- (3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—
- (a) a payment of rent under the contract;
  - (b) a payment required as security in respect of the contract.
- (4) This section is a fundamental provision which is incorporated as a term of all periodic standard contracts which incorporate section 173 as a term of the contract.”

- 3 In section 126 (notice procedure for variation, under section 125, of occupation contract by landlord), in subsection (2), for “or section 177 (breach of security and deposit requirements)” substitute “, section 177 (breach of security and deposit requirements) or section 177A (prohibited payments and holding deposits)”.

#### *Restrictions on giving notice in connection with end of fixed term standard contracts*

- 4 (1) After section 186 (landlord’s notice in connection with end of term), insert—

#### **“186A Restrictions on section 186: breach of information requirements**

- (1) If the landlord does not comply with section 31(1) or (2) (duty to provide written statement of contract), the landlord may not give notice under section 186 before the end of the restricted period.

- (2) The restricted period is six months starting with the day on which the landlord gives a written statement of the contract to the contractholder.
- (3) The landlord may not give the contract-holder notice under section 186 at any time when the landlord has not provided a notice required under section 39 (duty to provide information).
- (4) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts which incorporate section 186(1) as a term of the contract.

#### **186B Restrictions on section 186: breach of security and deposit requirements**

- (1) The landlord may not give notice under section 186 at a time when security required by the landlord in a form not permitted by section 43 has not been returned to the person by whom it was given.
- (2) The landlord may not give notice under section 186 at a time when any of subsections (3) to (5) apply unless—
  - (a) a deposit paid in connection with the contract has been returned to the contract-holder (or any person who paid the deposit on his or her behalf) either in full or with such deductions as may have been agreed, or
  - (b) an application to the county court has been made under paragraph 2 of Schedule 5 and has been determined by the county court, withdrawn, or settled by agreement between the parties.
- (3) A deposit has been paid in connection with the contract but the initial requirements of an authorised deposit scheme have not been complied with.
- (4) A deposit has been paid in connection with the contract but the landlord has not provided the information required by section 45(2)(b).
- (5) A deposit paid in connection with the contract is not being held in accordance with an authorised deposit scheme.
- (6) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts which incorporate section 186(1) as a term of the contract; and section 20 provides that this section—
  - (a) must be incorporated, and
  - (b) must not be incorporated with modifications.

#### **186C Restrictions on section 186: prohibited payments and holding deposits**

- (1) The landlord may not give a notice under section 186 at a time when—
  - (a) the landlord has required a prohibited payment (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) to be made as described in section 2 or 3 of that Act,
  - (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
  - (c) the prohibited payment has not been repaid.
- (2) The landlord may not give a notice under section 186 at a time when—

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

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- (a) a holding deposit (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) paid in relation to the contract has not been repaid, and
  - (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to that Act.
- (3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—
  - (a) a payment of rent under the contract;
  - (b) a payment required as security in respect of the contract.
- (4) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts which incorporate section 186(1) as a term of the contract.”
- (2) In section 20 (incorporation and modification of fundamental provisions), in subsection (3), after paragraph (m), insert—
  - “(ma) section 186B (breach of deposit requirements: restriction on giving notice in connection with end of fixed term standard contracts),”.
- (3) In section 135 (limitation on variation), in subsection (2), after paragraph (i), insert—
  - “(ia) section 186B (breach of deposit requirements: restriction on giving notice in connection with end of fixed term standard contracts),”.
- (4) For section 183(2) (relevance of events under fixed term standard contract), substitute—
  - “(2) Sections 179 and 180 apply to a notice under section 186(1), and to a possession claim made on the ground in section 186(5) in reliance on such a notice, as they apply to a notice under section 173, and to a possession claim made on the ground in section 178 in reliance on a notice under section 173.”

*Restriction on using landlord’s break clause in fixed term standard contracts*

- 5        After section 198 (restrictions on use of landlord’s break clause: security and deposit requirements), insert—

**“198A Restrictions on use of landlord’s break clause: prohibited payments and holding deposits**

- (1) The landlord may not give notice under a landlord’s break clause at a time when—
  - (a) the landlord has required a prohibited payment (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) to be made as described in section 2 or 3 of that Act,
  - (b) as a result of the requirement, a prohibited payment has been made to the landlord or to any other person, and
  - (c) the prohibited payment has not been repaid.
- (2) The landlord may not give notice under a landlord’s break clause at a time when—

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

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- (a) a holding deposit (within the meaning given by the Renting Homes (Fees etc.) (Wales) Act 2019) paid in relation to the contract has not been repaid, and
  - (b) the circumstances are such that the failure to repay the deposit amounts to a breach of the requirements of Schedule 2 to that Act.
- (3) In determining for the purposes of this section whether a prohibited payment or a holding deposit has been repaid, the payment or deposit is to be treated as having been repaid to the extent (if any) that it has been applied towards either or both of the following—
- (a) a payment of rent under the contract;
  - (b) a payment required as security in respect of the contract.
- (4) This section is a fundamental provision which is incorporated as a term of all fixed term standard contracts with a landlord's break clause."

*Restrictions on a court hearing landlord's claim for possession*

- 6 In section 204 (restrictions on court hearing a landlord's claims for possession)—
- (a) in subsection (1)(a)(vii), after "177" insert ", 177A";
  - (b) in subsection (1)(a)(ix), for "section 186", substitute "sections 186, 186A, 186B and 186C";
  - (c) in subsection (1)(a)(xiii), after "198" insert ", 198A".

*Miscellaneous consequential provision*

- 7 In Schedule 1 (overview of fundamental provisions incorporated as terms of occupation contracts)—
- (a) in Part 2 (periodic standard contracts), in table 4, in the notes for the entry for sections 173 to 180 (termination by notice given by landlord)—
    - (i) for "and 176" substitute ", 176, 177 and 177A";
    - (ii) for "section 176" substitute "section 177";
  - (b) in Part 3 (fixed term standard contracts), in table 5—
    - (i) in the first column of the entry for section 186, for "Section 186", insert "Sections 186, 186A, 186B and 186C";
    - (ii) in the notes for the entry for section 186, at the end, insert "If section 186(1) is not incorporated, sections 186A, 186B and 186C do not apply. If a contract incorporates section 186(1), sections 186A, 186B and 186C must be incorporated, and section 186B must be incorporated without modification.";
    - (iii) in the notes for the entry for sections 195 to 201 (termination by notice given by landlord under landlord's break clause), for "section 196 (breach of deposit rules)" substitute "section 198 (breach of security and deposit requirements)".