

## SCHEDULES

### SCHEDULE 1

Section 3

#### PERMITTED PAYMENTS

##### *Rent*

- 1 (1) A payment of rent under a tenancy is a permitted payment.
- (2) But, subject as follows, if the amount of rent payable in respect of any relevant period (“P1”) is more than the amount of rent payable in respect of any later relevant period (“P2”), the additional amount payable in respect of P1 is a prohibited payment.
- (3) Where there is more than one later relevant period in respect of which the amount of rent payable is lower than the amount of rent payable in respect of P1—
  - (a) if different amounts of rent are payable for different later relevant periods, P2 is the relevant period for which the lowest amount of rent is payable;
  - (b) if the same amount of rent is payable for more than one later relevant periods, P2 is the first of those periods.
- (4) The following provisions apply for the purposes of determining—
  - (a) whether the amount of rent payable in respect of a relevant period is more than the amount of rent payable in respect of a later relevant period, and
  - (b) the difference between the amount of rent payable in respect of the earlier relevant period and that payable in respect of the later relevant period.
- (5) Where the later relevant period is a different length of time to the earlier relevant period, the amount of rent payable in respect of the later period is to be treated as the proportionate amount of rent that would be payable in respect of that period if it were the same length of time as the earlier period.
- (6) There is to be left out of account any difference between the rent payable in respect of the earlier relevant period and the rent payable in respect of the later relevant period as a result of a variation of the rent payable in respect of the later period—
  - (a) pursuant to a term in the tenancy agreement which enables the rent under the tenancy to be increased or reduced, according to the circumstances, or
  - (b) by agreement between the landlord and the tenant after the tenancy agreement has been entered into.
- (7) In this paragraph “relevant period”, in relation to a tenancy, means any period of time in respect of which rent is payable under the tenancy.
- (8) But “relevant period” does not include a period of time which begins after the end of one year beginning with the first day of the tenancy.

##### *Tenancy deposit*

- 2 (1) A payment of a tenancy deposit is a permitted payment.

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

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- (2) In this Act “tenancy deposit” means money intended to be held (by a landlord or otherwise) as security for—
- (a) the performance of any obligations of a tenant, or
  - (b) the discharge of any liability of a tenant,
- arising under or in connection with a tenancy.
- (3) But if the amount of the tenancy deposit exceeds—
- (a) the amount of five weeks’ rent, where the annual rent in respect of the tenancy immediately after its grant, renewal or continuance is less than £50,000, or
  - (b) the amount of six weeks’ rent, where the annual rent in respect of the tenancy immediately after its grant, renewal or continuance is £50,000 or more,
- the amount of the excess is a prohibited payment.
- (4) In this paragraph—
- (a) “five weeks’ rent” means five times one week’s rent,
  - (b) “six weeks’ rent” means six times one week’s rent, and
  - (c) “one week’s rent” means the amount of the annual rent payable in respect of the tenancy immediately after its grant, renewal or continuance divided by 52.

#### *Holding deposit*

- 3 (1) Subject to sub-paragraphs (3) to (6), a payment of a holding deposit is a permitted payment.
- (2) In this Act “holding deposit” means money which is paid by or on behalf of a tenant to a landlord or letting agent before the grant of a tenancy with the intention that it should be dealt with by the landlord or letting agent in accordance with Schedule 2 (treatment of holding deposit).
- (3) If the amount of the holding deposit exceeds one week’s rent, the amount of the excess is a prohibited payment.
- (4) In sub-paragraph (3) “one week’s rent” means the amount of the annual rent payable in respect of the tenancy immediately after its grant, renewal or continuance divided by 52.
- (5) A payment of a holding deposit is not a permitted payment if—
- (a) the landlord or letting agent to whom the deposit was paid has previously received a holding deposit (“the earlier deposit”) in relation to the same housing,
  - (b) the landlord or letting agent has not repaid all or part of the earlier deposit, and
  - (c) none of paragraphs 6 to 12 of Schedule 2 have applied so as to permit the landlord or letting agent not to repay the earlier deposit or the part that has not been repaid.
- (6) The reference in sub-paragraph (5)(a) to a landlord or letting agent receiving a holding deposit does not include the landlord or letting agent doing so before the coming into force of Schedule 2.

*Payment in the event of a default*

- 4 (1) Subject to sub-paragraphs (3) to (8), a payment in the event of a relevant default by the tenant is a permitted payment if the tenancy agreement requires the payment to be made.
- (2) In this paragraph “relevant default” means—
- (a) the loss of a key to, or other security device giving access to, the housing to which the tenancy relates, or
  - (b) a failure to make a payment of rent in full before the end of the period of 14 days beginning with the date (“the due date”) on which the payment is required to be made in accordance with the tenancy agreement.
- (3) If, in the case of a payment required to be made to a landlord or letting agent in respect of a relevant default within sub-paragraph (2)(a), the amount of the payment exceeds the costs which—
- (a) are reasonably incurred by the landlord or letting agent as a result of the default, and
  - (b) are supported by evidence in writing which is provided to the person on whom the requirement to make the payment is imposed,
- the amount of the excess is a prohibited payment.
- (4) If, in the case of a payment required to be made to a landlord or a letting agent in respect of a relevant default within sub-paragraph (2)(b), the amount of the payment exceeds the amount determined in accordance with sub-paragraph (5), the amount of the excess is a prohibited payment.
- (5) The amount referred to in sub-paragraph (4) is the aggregate of the amounts found by applying, in relation to each day after the due date for which the rent remains unpaid, an annual percentage rate of 3% above the Bank of England base rate to the amount of rent that remains unpaid at the end of that day.
- (6) In sub-paragraph (5) “Bank of England base rate” means—
- (a) the percentage rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
  - (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent percentage rate determined by the Treasury under that section.
- (7) If—
- (a) a landlord requires a relevant person to make a payment to the landlord in respect of a relevant default within sub-paragraph (2)(b), and
  - (b) a letting agent subsequently requires a payment to be made to the letting agent in respect of the same default,
- the payment referred to in paragraph (b) is a prohibited payment.
- (8) If—
- (a) a letting agent requires a relevant person to make a payment to the letting agent in respect of a relevant default within sub-paragraph (2)(b), and
  - (b) a landlord subsequently requires a payment to be made to the landlord in respect of the same default,

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the payment referred to in paragraph (b) is a prohibited payment.

- 5 A payment of damages for breach of a tenancy agreement or an agreement between a letting agent and a relevant person is a permitted payment.

*Payment on variation, assignment or novation of a tenancy*

- 6 (1) A payment is a permitted payment if it is a payment—
- (a) to a landlord in consideration of the variation, assignment or novation of a tenancy at the tenant’s request, or
  - (b) to a letting agent in consideration of arranging the variation, assignment or novation of a tenancy at the tenant’s request.
- (2) But if the amount of the payment exceeds the greater of—
- (a) £50, or
  - (b) the reasonable costs of the person to whom the payment is to be made in respect of the variation, assignment or novation of the tenancy,
- the amount of the excess is a prohibited payment.

*Payment on termination of a tenancy*

- 7 (1) A payment is a permitted payment if it is a payment to a landlord in consideration of the termination of a tenancy at the tenant’s request—
- (a) in the case of a fixed term tenancy, before the end of the term, or
  - (b) in the case of a periodic tenancy, without the tenant giving the period of notice required under the tenancy agreement or by virtue of any rule of law.
- (2) But if the amount of the payment exceeds the loss suffered by the landlord as a result of the termination of the tenancy, the amount of the excess is a prohibited payment.
- (3) A payment is a permitted payment if it is a payment to a letting agent in consideration of arranging the termination of a tenancy at the tenant’s request—
- (a) in the case of a fixed term tenancy, before the end of the term, or
  - (b) in the case of a periodic tenancy, without the tenant giving the period of notice required under the tenancy agreement or by virtue of any rule of law.
- (4) But if the amount of the payment exceeds the reasonable costs of the letting agent in respect of the termination of the tenancy, the amount of the excess is a prohibited payment.
- (5) In this paragraph “fixed term tenancy” means any tenancy other than a periodic tenancy.

*Payment in respect of council tax*

- 8 (1) A payment to a billing authority in respect of council tax is a permitted payment.
- (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 utilities etc*

- 9 (1) A payment for or in connection with the provision of a utility is a permitted payment if the tenancy agreement requires the payment to be made.
- (2) A payment towards energy efficiency improvements under a green deal plan (within the meaning of section 1 of the Energy Act 2011) is a permitted payment if the tenancy agreement requires the payment to be made.
- (3) In this Act “utility” means—
- (a) electricity, gas or other fuel, or
  - (b) water or sewerage.

*Payment in respect of a television licence*

- 10 (1) A payment to the British Broadcasting Corporation in respect of a television licence is a permitted payment if the tenancy agreement requires the payment to be made.
- (2) In this Act “television licence” means a licence for the purposes of section 363 of the Communications Act 2003.

*Payment in respect of communication services*

- 11 (1) A payment for or in connection with the provision of a communication service is a permitted payment if the tenancy agreement requires the payment to be made.
- (2) But, in the case of a payment to a landlord, if the amount of the payment exceeds the reasonable costs incurred by the landlord for or in connection with the provision of the service, the amount of the excess is a prohibited payment.
- (3) In this Act “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.