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SCHEDULE 5

(introduced by section 46)

DEPOSIT SCHEMES: FURTHER PROVISION

Modifications etc. (not altering text)

C1 Sch. 5 modified (1.12.2022) by The Renting Homes (Wales) Act 2016 (Saving and Transitional Provisions) Regulations 2022 (S.I. 2022/1172), regs. 1(2), **8** (with reg. 19)

Deposit schemes

1 (1) The Welsh Ministers must make arrangements for securing that one or more deposit schemes are available.

(2) "Deposit scheme" means a scheme for the purpose of—

(a) safeguarding deposits paid in connection with occupation contracts, and

(b) facilitating the resolution of disputes arising in connection with such deposits.

(3) "Arrangements" means arrangements with any person ("the scheme administrator") under which the scheme administrator undertakes to establish and maintain a deposit scheme of a description specified in the arrangements.

(4) The arrangements must require the scheme administrator to give the Welsh Ministers such information, and such facilities for obtaining information, as the Welsh Ministers may require.

(5) The Welsh Ministers may—

(a) give financial assistance to the scheme administrator;

(b) make other payments to the scheme administrator in pursuance of the arrangements;

(c) guarantee the discharge of any financial obligation incurred by the scheme administrator in connection with the arrangements.

(6) The Welsh Ministers may make regulations conferring powers and imposing duties on scheme administrators.

Commencement Information

I1 Sch. 5 para. 1(1)-(5) in force at 1.12.2022 by S.I. 2022/906, **art. 2**

I2 Sch. 5 para. 1(6) in force at 5.8.2016 for specified purposes by S.I. 2016/813, art. 2(a), **Sch. Pt. 1**

I3 Sch. 5 para. 1(6) in force at 1.12.2022 in so far as not already in force by S.I. 2022/906, **art. 2**

Authorised deposit schemes: proceedings where the occupation contract has not ended

2 (1) Where a deposit has been paid in connection with an occupation contract that has not ended, the contract-holder (or any person who has paid the deposit on his or her behalf) may make an application to the county court on any of the following grounds.

(2) The first ground is that the landlord has not complied with section 45(2)(a) (initial requirements of an authorised deposit scheme).

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(3) The second ground is that the landlord has not complied with section 45(2)(b) (provision of required information).

(4) The third ground is that the applicant—

(a) has been notified by the landlord that a particular authorised deposit scheme applies to the deposit, but

(b) has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.

(5) The county court must act as follows if—

(a) in the case of an application on the first or second ground, it is satisfied that the ground is made out, or

(b) in the case of an application on the third ground, it is not satisfied that the deposit is being held in accordance with an authorised deposit scheme.

(6) The county court must either—

(a) order the person who appears to be holding the deposit to repay the deposit to the applicant before the end of the relevant period, or

(b) order the person who appears to be holding the deposit to pay the deposit, before the end of the relevant period, to the scheme administrator of a custodial deposit scheme (if such a scheme is in force in accordance with arrangements under paragraph 1) to be held in accordance with the scheme.

(7) The county court must also order the landlord to pay to the applicant, before the end of the relevant period, a sum of money not less than the amount of the deposit and not more than three times the amount of the deposit.

(8) The relevant period is the period of 14 days beginning with the date of the order.

(9) For the purposes of this paragraph, a custodial deposit scheme is a deposit scheme (within the meaning of paragraph 1(2)) under which deposits are paid to the scheme administrator by the landlord and held by the scheme administrator until, in accordance with the scheme, they fall to be paid to the landlord or contract-holder (or any person who paid the deposit on the contract-holder's behalf).

Commencement Information

I4 Sch. 5 para. 2 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

Authorised deposit schemes: proceedings where the occupation contract has ended

3 (1) Where a deposit has been paid in connection with an occupation contract that has ended, the person who was the contract-holder under the contract (or any person who paid the deposit on his or her behalf) may make an application to the county court on any of the following grounds.

(2) The first ground is that the landlord did not comply with section 45(2)(a) (initial requirements of an authorised deposit scheme).

(3) The second ground is that the landlord did not comply with section 45(2)(b) (provision of required information).

(4) The third ground is that the applicant—

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(a) was notified by the landlord that a particular authorised deposit scheme applied to the deposit, but

(b) has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.

(5) If the county court—

(a) in the case of an application on the first or second ground, is satisfied that the ground is made out, or

(b) in the case of an application on the third ground, is not satisfied that the deposit is being held in accordance with an authorised deposit scheme,

it may order the person who appears to be holding the deposit to repay all or part of the deposit to the applicant before the end of the relevant period.

(6) If sub-paragraph (5)(a) or (b) applies, the county court (whether or not it makes an order under that sub-paragraph) must order the landlord to pay to the applicant, before the end of the relevant period, a sum of money not less than the amount of the deposit and not more than three times the amount of the deposit.

(7) The relevant period is the period of 14 days beginning with the date of the order.

Commencement Information

I5 Sch. 5 para. 3 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

Existing deposit used in connection with a renewed or other kind of substitute occupation contract

4 (1) This paragraph applies where—

(a) a contract-holder paid a deposit in connection with an occupation contract ("the original contract"),

(b) the landlord, in respect of the deposit—

(i) dealt with it in accordance with an authorised deposit scheme,

(ii) complied with the initial requirements of the scheme, and

(iii) provided the information required by section 45(2)(b),

(c) the original contract is replaced with a substitute occupation contract, and

(d) the deposit that was paid in connection with the original contract continues to be held—

(i) in connection with the substitute occupation contract, and

(ii) in accordance with the same authorised deposit scheme as when the requirements mentioned in paragraph (b)(ii) and (iii) were last complied with in respect of it.

(2) This paragraph also applies where—

(a) a substitute occupation contract is replaced with a new substitute occupation contract, and

(b) the deposit that was paid in connection with the original contract continues to be held—

(i) in connection with the new substitute occupation contract, and

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(ii) in accordance with the same authorised deposit scheme as when the requirements mentioned in sub-paragraph (1)(b)(ii) and (iii) were last complied with in respect of it.

(3) The landlord is to be treated as having complied with the requirements in section 45 in relation to the deposit held in connection with the substitute occupation contract.

(4) For the purposes of this paragraph, an occupation contract is replaced with a substitute occupation contract if—

(a) the occupation date of the substitute occupation contract falls immediately after the end of the preceding occupation contract,

(b) the landlord and contract-holder under the substitute occupation contract are the same as under the preceding contract, and

(c) the substitute occupation contract relates to the same (or substantially the same) dwelling as the preceding contract.

Commencement Information

I6 Sch. 5 para. 4 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

Power to amend Schedule

5 The Welsh Ministers may by regulations amend this Schedule.

Commencement Information

I7 Sch. 5 para. 5 in force at 1.12.2022 by S.I. 2022/906, **art. 2**

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Changes and effects yet to be applied to :

– specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by S.I. 2019/110 reg. 5

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 20(3)(ma) inserted by 2019 anaw 2 Sch. 3 para. 4(2)
– s. 135(2)(ia) inserted by 2019 anaw 2 Sch. 3 para. 4(3)
– s. 186A-186C inserted by 2019 anaw 2 Sch. 3 para. 4(1)
– s. 198A inserted by 2019 anaw 2 Sch. 3 para. 5