

Changes to legislation: There are currently no known outstanding effects for the Renting Homes (Fees etc.) (Wales) Act 2019, SCHEDULE 2. (See end of Document for details)

SCHEDULE 2

(as introduced by section 9)

TREATMENT OF HOLDING DEPOSIT

Application

- 1 (1) This Schedule applies where a holding deposit is paid in respect of a standard occupation contract.
- (2) References in this Schedule to a contract-holder, in relation to a holding deposit, are to the person whose right of first refusal has been reserved by the holding deposit.

Commencement Information

I1 Sch. 2 para. 1 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

Meaning of “deadline for agreement”

- 2 (1) In this Schedule, the “deadline for agreement” means the fifteenth day of the period beginning with the day on which the holding deposit is paid.
- (2) But the parties may agree in writing that a different day is to be the deadline for agreement.
- (3) Regulations may amend sub-paragraph (1) to change the deadline for agreement.

Commencement Information

I2 Sch. 2 para. 2 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

Requirement to repay holding deposit

- 3 Subject as follows, the person who received the holding deposit must repay it if—
- (a) the parties enter into the contract before the deadline for agreement, or
- (b) the parties fail to enter into the contract before the deadline for agreement.

Commencement Information

I3 Sch. 2 para. 3 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

- 4 The deposit must be repaid within the period of 7 days beginning with—
- (a) where paragraph 3(a) applies, the day on which the contract is made, or
- (b) where paragraph 3(b) applies, the deadline for agreement.

Commencement Information

I4 Sch. 2 para. 4 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

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Exceptions

- 5 Paragraph 3(a) does not apply to the extent that the amount of the deposit is applied—
- (a) towards the first payment of rent under the contract, or
 - (b) towards the payment of a security deposit under the contract.

Commencement Information

I5 Sch. 2 para. 5 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

- 6 If all or part of the holding deposit is applied in accordance with paragraph 5(b), the amount applied is treated for the purposes of section 45 of the Renting Homes (Wales) Act 2016 (anaw 1) (requirement to use deposit schemes) as having been paid on the date the contract is made.

Commencement Information

I6 Sch. 2 para. 6 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

- 7 Paragraph 3(b) does not apply if the contract-holder provides false or misleading information to the landlord or letting agent and—
- (a) the landlord is reasonably entitled to take into account the difference between the information provided by the contract-holder and the correct information in deciding whether to grant a contract to the contract-holder, or
 - (b) the landlord is reasonably entitled to take the contract-holder's action in providing false or misleading information into account in deciding whether to grant such a contract.

Commencement Information

I7 Sch. 2 para. 7 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

- 8 Paragraph 3(b) does not apply if the contract-holder notifies the landlord or letting agent before the deadline for agreement that the contract-holder has decided not to enter into a contract.

Commencement Information

I8 Sch. 2 para. 8 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

- 9 Paragraph 3(b) does not apply in relation to a holding deposit paid to a landlord if—
- (a) the landlord takes all reasonable steps to enter into a contract before the deadline for agreement, but
 - (b) the contract-holder fails to take all reasonable steps to enter into a contract before that date.

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I9 Sch. 2 para. 9 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

- 10 Paragraph 3(b) does not apply in relation to a holding deposit paid to a letting agent if—
- (a) the agent takes all reasonable steps to assist the landlord to enter into a contract before the deadline for agreement, and
 - (b) the landlord takes all reasonable steps to enter into a contract before that date, but
 - (c) the contract-holder fails to take all reasonable steps to enter into a contract before that date.

Commencement Information

I10 Sch. 2 para. 10 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

Supplemental provision about exceptions in paragraphs 8 to 10

- 11 (1) The exceptions specified in paragraphs 8, 9 and 10 may not be relied upon unless the condition in sub-paragraph (2) is met.
- (2) The condition is that, before payment of the holding deposit, information within sub-paragraph (3) has been provided to the contract-holder by either the landlord or (if one has been instructed by the landlord in relation to the contract) the letting agent.
- (3) Information within this sub-paragraph is information specified in, or of a description specified in, regulations.
- (4) Information is not to be treated as having been provided to the contract-holder, for the purposes of sub-paragraph (1), unless it has been provided in whatever way (if any) is specified in the regulations.
- (5) In a case where a landlord has instructed a letting agent in relation to a contract, the exception in paragraph 9 may, in addition, not be relied upon unless the agent takes all reasonable steps to assist the landlord to enter into a contract before the deadline for agreement.

Commencement Information

I11 Sch. 2 para. 11 in force at 1.9.2019 by S.I. 2019/1150, art. 2(d)

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