

SL(5)492 – The Renting Homes (Fees etc.) (Prescribed Limits of Default Payments) (Wales) Regulations 2020

Background and Purpose

These Regulations specify limits (prescribed limits) for certain types of payments required in the event of a default by a contract-holder of a standard occupation contract.

Part 2 of the Renting Homes (Fees etc.) (Wales) Act 2019 (“the Act”) makes it an offence for a landlord or letting agent to require any payment of money in consideration of granting, renewing or continuing a standard occupation contract, or pursuant to a term of a standard occupation contract, unless it falls within one of two categories. Any such payment which does not fall within those two categories is a ‘prohibited payment’. The first category covers payments by a landlord to a letting agent in respect of lettings work or property management work. The second category comprises ‘permitted payments’, which are those payments listed in Schedule 1 to the Act.

Default payments are included as permitted payments in Schedule 1 to the Act (paragraph 6). Default payments are payments required under a standard occupation contract, as a result of a contract-holder’s default. The Welsh Ministers may specify limits for those default payments. If those prescribed limits are exceeded, the excess is a prohibited payment.

Regulation 2 sets out the method of determining the prescribed limit which applies in the case of a failure by the contract-holder to make a payment of rent to the landlord by the due date.

Regulation 3 specifies two descriptions of default payment in respect of which a prescribed limit is specified. The first description comprises default payments in respect of the cost of changing, adding or removing a lock, where this has been necessary as a result of a breach by the contract-holder of a term of the contract. The second description comprises default payments in respect of the cost of replacing a key or other security device used to access the dwelling, where the replacement has been necessary as a result of a breach by the contract-holder of a term of the contract.

In respect of both those descriptions, the prescribed limit is specified in regulation 4 as being the actual cost of the replacement, change, addition or removal.

These Regulations apply to assured shorthold tenancies until such time those tenancies convert to standard occupation contracts under section 240 of the Renting Homes (Wales) Act 2016 when they will apply to standard occupation contracts.

Procedure

Affirmative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:



1. Standing Order 21.3(ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

These Regulations are the fourth set of regulations to be laid by the Welsh Ministers under the Renting Homes (Fees etc.) (Wales) Act 2019.

These Regulations prescribe default payments which may be required as a result of a contract-holder's default and set limits in respect of those payments. The types of default payments that a landlord would be permitted to charge were considered during the passage of the Act. The types of default payments contained in these Regulations reflect what was anticipated during the scrutiny stages.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

4 February 2020

