



## 2022 CHAPTER 20

### **Limit on tenancy deposit amount**

- 4.—(1) The 2006 Order is amended as follows.
- (2) After Article 5ZB (as inserted by section 3) insert—

*“Limit on tenancy deposit amount*

### **Tenancy deposit limit of 1 month’s rent**

**5ZC.**—(1) A person (A) must not—

- (a) require the payment by another person of a tenancy deposit in connection with a private tenancy, or
- (b) require that the person to whom a tenancy deposit would otherwise be repaid (B) consent to the retention of a deposit (by A or a third person) in connection with a private tenancy,

that is in excess of the amount of 1 month’s rent payable under the tenancy.

(2) For the purposes of paragraph (1)(b), A requires that B consent to the retention of a deposit if—

- (a) a tenancy deposit is paid (at any time) in connection with a private tenancy (“the first tenancy”),
- (b) a person proposes to grant, or has granted, a private tenancy of that or another dwelling-house (whether to the tenant of the first tenancy or to another person), and
- (c) A requires that B consent to some or all of the deposit continuing to be held, on or after the ending of the first tenancy, in connection with the new tenancy.

(3) “1 month’s rent payable under the tenancy”, where the rent under a private tenancy is not payable monthly, means—

- (a) where the rent under the tenancy is payable for periods of whole months, the rent for a period divided by the number of months in the period;
- (b) where the rent is payable for periods determined otherwise than by reference to whole months, the rent attributable to 1 day’s letting under the tenancy multiplied by 30.

(4) A person who contravenes paragraph (1) is guilty of an offence under this Order.

(5) Where a person—

- (a) is convicted of an offence under paragraph (4), and
- (b) has received or, as the case may be, retained a tenancy deposit in excess of the amount of 1 month’s rent payable under the tenancy,

the court may order the excess to be repaid to the person who paid it.

(6) In this Article—

“tenancy deposit”, in relation to a private tenancy, means any money intended to be held (by the landlord or otherwise) as security for—

- (a) the performance of any obligations of the tenant arising under or in connection with the tenancy, or
- (b) the discharge of any liability of the tenant so arising;

“money” means money in the form of cash or otherwise.

### **Breach of tenancy deposit limit: recoverability of excess**

**5ZD.**—(1) A tenancy deposit in relation to a private tenancy that has not been paid is irrecoverable to the extent that it exceeds the amount of 1 month’s rent payable under the tenancy (and this is so despite anything in any agreement).

(2) Where, in connection with a private tenancy—

- (a) a tenancy deposit has been paid or retained (as defined in paragraph (3)), and
- (b) at the time of payment or retention, or at any time thereafter, the deposit exceeds the amount of 1 month’s rent payable under the tenancy,

the excess is recoverable by the person who paid it.

(3) For the purposes of paragraph (2), if—

- (a) a tenancy deposit is paid (at any time) in connection with a private tenancy (“the first tenancy”),

- (b) a private tenancy is granted of that or another dwelling-house (whether to the tenant of the first tenancy or to another person) or (where the first tenancy is a protected tenancy) a statutory tenancy comes into existence, and
- (c) on or after the ending of the first tenancy, some or all of the deposit continues to be held in connection with the new tenancy,

the deposit is retained in connection with the new tenancy.

(4) In this Article “1 month’s rent payable under the tenancy” and “tenancy deposit” have the same meaning as in Article 5ZC.”.

(3) In Article 68(1) (prosecution and punishment of offences), after “5ZA(3)” (as inserted by section 3) insert “, 5ZC(4)”.

(4) In Article 68A (fixed penalty for certain offences)—

- (a) in paragraph (1), after sub-paragraph (zd) (as inserted by section 3) insert—

“(ze) an offence under Article 5ZC(4);”;

- (b) in paragraph (8), after “5ZA(3),” (as inserted by section 3) insert “5ZC(4),”.

(5) The following provisions (inserted by subsection (2)) have effect as follows—

- (a) Article 5ZC(1)(a) prohibits the making of a requirement within that sub-paragraph on or after the commencement date;
- (b) Article 5ZC(1)(b) prohibits the making of a requirement within that sub-paragraph on or after the commencement date, regardless of the date on which the deposit was paid or the date on which the first tenancy ends;
- (c) Article 5ZD(1) does not prevent the recovery of a tenancy deposit under a legal obligation that existed before the commencement date (whether that obligation accrues before or after that date);
- (d) Article 5ZD(2) has effect in relation to tenancy deposits that are paid on or after the commencement date except where the deposit was required to be paid under or in connection with a legal obligation that existed before the commencement date (whether that obligation accrues before or after that date);
- (e) Article 5ZD(2) has effect in relation to tenancy deposits that are retained on or after the commencement date except where the deposit was liable to be retained under or in connection with a legal right that existed before the commencement date (whether that right accrues before or after that date).

(6) In subsection (5) “commencement date” means the date on which this section comes into operation.