
First published in the *Government Gazette*, Electronic Edition, on 12 May 2020 at 7 pm.

No. S 375

COVID-19 (TEMPORARY MEASURES) ACT 2020 (ACT 14 OF 2020)

COVID-19 (TEMPORARY MEASURES) (TRANSFER OF BENEFIT OF PROPERTY TAX REMISSION) REGULATIONS 2020

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In exercise of the powers conferred by section 32 of the COVID-19 (Temporary Measures) Act 2020, the Minister for Finance makes the following Regulations:

PART 1**GENERAL****Citation and commencement**

1. These Regulations are the COVID-19 (Temporary Measures) (Transfer of Benefit of Property Tax Remission) Regulations 2020 and come into operation on 13 May 2020.

Definitions

2.—(1) In these Regulations —

“additional rental relief”, in relation to a tenant of any property, means the rent, interest and other charge under the lease

agreement between the tenant and the owner of the property that are waived under section 19J(1) of the Act as of the crystallisation date, after it is reduced under section 19O(3) of the Act, if applicable;

[S 1019/2020 wef 31/07/2020]

“Authority” means the Inland Revenue Authority of Singapore established under the Inland Revenue Authority of Singapore Act (Cap. 138A);

[S 1019/2020 wef 31/07/2020]

“benefit”, in relation to any property, means the reduction in property tax on the property under one or more prescribed remissions relating to the property;

“Comptroller” means the Comptroller of Property Tax appointed under section 3(1) of the Property Tax Act (Cap. 254);

“crystallisation date”, in relation to a property, means —

- (a) the day after the last day on which a section 19M application may be made for the property; or
- (b) where a section 19M application is made for the property — the day after the day on which the owner of the property is informed of the rental relief assessor’s determination of the application or is served with the determination under regulation 27(8) of the Rental Relief Regulations;

[S 1019/2020 wef 31/07/2020]

“notice of cash grant” means the notice of cash grant issued by the Authority under section 19F(1) of the Act for any property;

[S 1019/2020 wef 31/07/2020]

“owner”, in relation to any property, has the meaning given by section 2(1) of the Property Tax Act and includes a person that is deemed to be an owner of the property under any provision of that Act;

“prescribed property” has the meaning given by section 19B(1) of the Act;

[S 1019/2020 wef 31/07/2020]

“prescribed remission” means any remission of property tax prescribed in regulation 3;

“PTO” and “PTO chain” have the meanings given by section 19B(1) of the Act;

[S 1019/2020 wef 31/07/2020]

“rebate amount”, in relation to any property, means the quantum of the benefit for the property;

“rental relief”, in relation to a tenant of any property, means the rent, interest and other charge under the lease agreement between the tenant and the owner of the property that are waived under section 19H(1) of the Act, as of the crystallisation date;

[S 1019/2020 wef 31/07/2020]

“Rental Relief Regulations” means the COVID-19 (Temporary Measures) (Rental and Related Measures) Regulations 2020 (G.N. No. S 664/2020);

[S 1019/2020 wef 31/07/2020]

“section 19M application”, in relation to a property, means an application made under section 19M(2) of the Act to appoint a rental relief assessor to make a determination in relation to the property or a landlord or tenant of the property;

[S 1019/2020 wef 31/07/2020]

“specified lessee”, in relation to an owner of property, means a lessee who enters into a lease agreement with the owner for the whole or any part of the property for a purpose other than accommodation at the property or part of the property;

“specified licensee”, in relation to an owner of property, means a licensee who enters into a licence agreement with the owner for the whole or any part of the property —

- (a) for an initial period of at least 12 months, not including any period of extension or renewal that may be provided under the licence; and
- (b) for a purpose other than accommodation at the property or part of the property,

but excludes any of the following:

- (c) an invitee or a casual visitor at the property or part of the property, such as a diner at a restaurant or a shopper in a shopping mall or shop;
- (d) a person carrying out any employment or providing any service at the property or part of the property;

“tenant” means a lessee or licensee prescribed in regulation 4.

(2) In these Regulations, the net rent of any property or part of any property is the rent, licence fee or similar payment payable by a lessee or licensee of the property or part of the property to the owner of the property under the lease or licence agreement (as the case may be) between the lessee or licensee and the owner —

- (a) including the following amounts payable under the agreement:
 - (i) subject to paragraph (3), any amount determined by the gross turnover of any business carried on by the lessee or licensee at the property or part of the property;
 - (ii) fees for repair, insurance, maintenance and upkeep of the property or part of the property, and any amount in respect of property tax on the property or part of the property; but
- (b) excluding the following amounts payable under the agreement:
 - (i) any amount in respect of the provision of services by the owner to the lessee or licensee;
 - (ii) any goods and services tax.

(3) For the purpose of paragraph (2)(a)(i), if any amount in that provision for any month cannot be determined by the time the benefit for the property is required to be passed to the tenant in accordance with regulation 11, the amount in that provision determined for the month immediately prior to that month is treated as the amount for that month.

(4) In these Regulations, an owner of property has begun to pass the benefit or a part of the benefit for the property to a tenant of the owner —

(a) where the manner of passing is a method in regulation 10(1)(b) or (d) — when the first instalment is passed to the tenant; and

(b) where the manner of passing is a combination of 2 or more methods in regulation 10(1) — when the first amount under any of those methods is passed or (for a method under regulation 10(1)(b) or (d)) begun to be passed to the tenant.

(5) In these Regulations, a change in circumstances resulting in a change in the rebate amount for any property, is a change in circumstances —

(a) that affects the annual value for the property (including any change in use of the property and the completion of any development of the property); and

(b) in respect of which the Comptroller notifies the owner of the change in the rebate amount.

(6) In these Regulations, a reference to a portion of a rebate amount for any property in relation to any part of a year, is the portion of the rebate amount attributed by the Comptroller to that part of the year.

PART 2

PRESCRIBED REMISSIONS AND TENANTS

Prescribed remissions

3. Section 29(2) of the Act applies to any remission of property tax given by the Property Tax (Non-Residential Properties) (Remission) Order 2020 (G.N. No. S 155/2020).

Prescribed lessees and licensees

4.—(1) A prescribed lessee of an owner of property for the purposes of section 29(2) of the Act is a specified lessee of the property or any part of the property at any time in the period between 3 April 2020 and 31 December 2020 (both dates inclusive).

(2) A prescribed licensee of an owner of property for the purposes of section 29(2) of the Act is a specified licensee of the property or any part of the property where any part of the initial period of the licence agreement mentioned in paragraph (a) of the definition of “specified licensee” in regulation 2(1) falls in the period between 3 April 2020 and 31 December 2020 (both dates inclusive).

(3) To avoid doubt, nothing in paragraph (2) prevents Part 3 from applying in relation to any part of the period of a licence of a prescribed licensee that is an extension of the initial period of the licence or a renewal of the licence.

PART 3

PRESCRIBED AMOUNT OF BENEFIT FOR PASSING ON

Prescribed amount of benefit for passing on: general

5.—(1) The amount of the benefit for any property which an owner of the property must pass to a tenant of the owner is determined as follows:

(a) where the whole of the property is leased or licensed by the owner to a single tenant at a time, in accordance with —

(i) regulations 6(1), 6A, 8 and 9; or

[S 1019/2020 wef 31/07/2020]

(ii) regulations 6(3), 6B and 9;

[S 1019/2020 wef 31/07/2020]

(b) where a part of the property is leased or licensed by the owner to a single tenant at a time, or different parts of the property are leased or licensed to 2 or more tenants at a time, in accordance with —

(i) regulations 7(1) and (3), 7A, 8 and 9 in relation to every part of the property; or

[S 1019/2020 wef 31/07/2020]

(ii) regulations 7(6) and (8), 7B and 9 in relation to every part of the property.

[S 1019/2020 wef 13/05/2020]

[S 1019/2020 wef 31/07/2020]

(2) To avoid doubt, where there is no tenant of the property as mentioned in regulation 6(3), then only paragraph (1)(a)(i) applies in relation to the property.

(3) To avoid doubt, where there is no tenant for every part of the property as mentioned in regulation 7(6), then only paragraph (1)(b)(i) applies in relation to every part of the property.

Prescribed amount of benefit for passing on: whole property leased or licensed to single tenant

6.—(1) Subject to paragraph (3) and regulation 6A, the amount of the benefit for any property which the owner of the property must pass to a tenant who is a lessee or licensee of the whole of the property is the total of the sums calculated for each month of the year 2020 in which the tenant is such lessee or licensee, using —

(a) for the month of January 2020 and each subsequent month (unless sub-paragraph (b) or (c) applies to the month), the formula

$$\frac{\text{PTR}}{12} \times \frac{\text{D}}{\text{D(Month)}};$$

- (b) for a month in which there is a change in circumstances resulting in a change in the rebate amount for the property, the formula

$$\left(\frac{\text{PTR}(\text{Old})}{\text{T}(\text{Old})} \times \frac{\text{D}(\text{Old})}{\text{D}(\text{Month})} \right) + \left(\frac{\text{PTR}(\text{New})}{\text{T}(\text{New})} \times \frac{\text{D}(\text{New})}{\text{D}(\text{Month})} \right); \text{ and}$$

- (c) for each subsequent month following after the month in sub-paragraph (b) (up to and including the month immediately before another month in which such change occurs), the formula

$$\frac{\text{PTR}(\text{New})}{\text{T}(\text{New})} \times \frac{\text{D}}{\text{D}(\text{Month})}.$$

[S 1019/2020 wef 31/07/2020]

- (2) For the purposes of paragraph (1) —
- (a) D is the number of days in the month for which the tenant is a lessee or licensee of the property;
 - (b) D(Month) is the number of days in the month;
 - (c) D(New) is the number of days in the month beginning on the day the change in circumstances occurs until the end of the month, for which the tenant is a lessee or licensee of the property;
 - (d) D(Old) is the number of days in the month before the change in circumstances occurs, for which the tenant is a lessee or licensee of the property;
 - (e) PTR is —
 - (i) the rebate amount for the property as determined before any change in circumstances occurs; and
 - (ii) where there is no rebate amount mentioned in sub-paragraph (i) — zero;
 - (f) PTR(New) is the portion of the rebate amount for the property for the period of T(New) that is being applied;

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- (g) PTR(Old) is the portion of the rebate amount for the property for the period of T(Old) that is being applied;
- (h) T(New) is the period —
- (i) between the day on which the change in circumstances to which paragraph (1)(b) is being applied occurs and the last day of the year (both days inclusive); or
 - (ii) if a change in circumstances subsequent to the change in circumstances in respect of which paragraph (1)(b) is being applied is known, between the day on which the change in circumstances in respect of which paragraph (1)(b) is being applied occurs and the day immediately before the day on which the subsequent change in circumstances occurs (both days inclusive),

reckoned by adding to the number of whole months in that period, the fraction of any month that is at the start and the fraction of any month that is at the end of the period; and

- (i) T(Old) is the period —
- (i) between 1 January 2020 and the day immediately before the day on which the change in circumstances in respect of which paragraph (1)(b) is being applied occurs (both days inclusive); or
 - (ii) if there was a change in circumstances before the change in circumstances in respect of which paragraph (1)(b) is being applied, between the day on which the earlier change in circumstances occurs and the day immediately before the day on which the change in circumstances in respect of which paragraph (1)(b) is being applied occurs (both days inclusive),

reckoned by adding to the number of whole months in that period, the fraction of any month that is at the start and the fraction of any month that is at the end of the period.

Illustration 1

Assume that the rebate amount for the property is \$100 for the period between 1 January 2020 and 31 December 2020 (both dates inclusive).

Tenant A has a lease for the period between 14 May 2019 and 15 May 2020 (both dates inclusive). The property is vacant until Tenant B's lease for the period between 15 August 2020 and 14 August 2021 (both dates inclusive).

The amount of the benefit to be passed to Tenant A is

$$\frac{\$100}{12} \times (1 + 1 + 1 + 1 + \frac{15}{31}) = \$37.37.$$

The amount of the benefit to be passed to Tenant B is

$$\frac{\$100}{12} \times (\frac{17}{31} + 1 + 1 + 1 + 1) = \$37.90.$$

Illustration 2

Assume that the rebate amount for the property is \$100 for the period between 1 January 2020 and 31 December 2020 (both dates inclusive).

Tenant C has a lease for the entire of the year 2020.

On 15 May 2020, a change in circumstances occurs, resulting in the rebate amount for the property becoming \$37.10 for the period between 1 January 2020 and 14 May 2020 (both dates inclusive), and \$75.48 for the period between 15 May 2020 and 31 December 2020 (both dates inclusive).

A subsequent change in circumstances occurs on 15 October 2020, resulting in the rebate amount becoming \$50 for the period between 15 May 2020 and 14 October 2020 (both dates inclusive), and \$19.11 for the period between 15 October 2020 and 31 December 2020 (both dates inclusive).

For January 2020 to April 2020, the amount to be passed under paragraph (1)(a) is in total —

$$\frac{\$100}{12} \times (1 + 1 + 1 + 1) = \$33.33.$$

For May 2020, the amount to be passed under paragraph (1)(b) is —

$$\left[\frac{\$37.10}{(4 + \frac{14}{31})} \times \frac{14}{31} \right] + \left[\frac{\$75.48}{(\frac{17}{31} + 7)} \times \frac{17}{31} \right] = \$9.25.$$

For June 2020 to September 2020, the amount to be passed under paragraph (1)(c) is in total —

$$\frac{\$75.48}{\left(\frac{17}{31} + 7\right)} \times (1 + 1 + 1 + 1) = \$40.$$

For October 2020, the amount to be passed under paragraph (1)(b) is —

$$\left[\frac{\$50.00}{\left(\frac{17}{31} + 4 + \frac{14}{31}\right)} \times \frac{14}{31} \right] + \left[\frac{\$19.11}{\left(\frac{17}{31} + 2\right)} \times \frac{17}{31} \right] = \$8.63.$$

For November 2020 and December 2020, the amount to be passed under paragraph (1)(c) is in total —

$$\frac{\$19.11}{\left(\frac{17}{31} + 2\right)} \times 2 = \$15.$$

Illustration 3

Assume that the rebate amount for the property is \$100 for the period between 1 January 2020 and 31 December 2020 (both dates inclusive).

Tenant C has a lease for the period between 14 May 2019 and 15 May 2020 (both dates inclusive). The property is vacant until Tenant D's lease for the period between 15 August 2020 and 14 August 2021 (both dates inclusive).

On 15 May 2020, a change in circumstances occurs, resulting in the rebate amount becoming \$37.10 for the period between 1 January 2020 and 14 May 2020 (both dates inclusive), and \$75.48 for the period between 15 May 2020 and 31 December 2020 (both dates inclusive).

A subsequent change in circumstances occurs on 15 October 2020, resulting in the rebate amount becoming \$50 for the period between 15 May 2020 and 14 October 2020 (both dates inclusive) and \$19.11 for the period between 15 October 2020 and 31 December 2020 (both dates inclusive).

The amount of the benefit to be passed to Tenant C is the total of the following:

- (a) for January 2020 to April 2020 under paragraph (1)(a) — \$33.33;
- (b) for May 2020 under paragraph (1)(b) —

$$\left[\frac{\$37.10}{\left(4 + \frac{14}{31}\right)} \times \frac{14}{31} \right] + \left[\frac{\$75.48}{\left(\frac{17}{31} + 7\right)} \times \frac{1}{31} \right] = \$4.09.$$

The amount of the benefit to be passed to Tenant D is the total of the following:

(a) for August 2020 and September 2020 under paragraph (1)(c) —

$$\frac{\$75.48}{\left(\frac{17}{31} + 7\right)} \times \left(\frac{17}{31} + 1\right) = \$15.48;$$

(b) for October 2020 under paragraph (1)(b) —

$$\left[\frac{\$50.00}{\left(\frac{17}{31} + 4 + \frac{14}{31}\right)} \times \frac{14}{31} \right] + \left[\frac{\$19.11}{\left(\frac{17}{31} + 2\right)} \times \frac{17}{31} \right] = \$8.63;$$

(c) for November 2020 and December 2020 under paragraph (1)(c) —

$$\frac{\$19.11}{\left(\frac{17}{31} + 2\right)} \times 2 = \$15.$$

(3) Despite paragraph (1) and subject to regulations 5(2) and 6B, the owner may instead of passing the amount of the benefit for the property in accordance with paragraph (1), pass the whole of the rebate amount for the property to —

- (a) the tenant who is a lessee or licensee of the property on 3 April 2020; or
- (b) if there is no tenant as mentioned in sub-paragraph (a) for the property, the first tenant who is a lessee or licensee of the property in the period between 4 April 2020 and 31 July 2020 (both dates inclusive).

[S 1019/2020 wef 31/07/2020]

Amount to be deducted from regulation 6(1) amount

6A.—(1) This regulation applies to a case where —

- (a) the property mentioned in regulation 6(1) is a prescribed property;
- (b) the tenant mentioned in regulation 6(1) (called in this regulation the subject tenant) has rental relief, additional rental relief or both in relation to the property;
- (c) the owner of the property is required under regulation 11 or 11A to pass any benefit for the property to the subject tenant by a date after 31 July 2020; and

[S 1019/2020 wef 19/12/2020]

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- (d) benefit for the property is not passed to a tenant in accordance with regulation 6(3).
- (2) The amount of benefit for the property relating to the months of July 2020 to December 2020 that the owner must pass to the subject tenant is the difference between —
- (a) the amount of benefit for the property relating to the months of July 2020 to December 2020 that (but for this regulation) the owner is required to pass to the subject tenant, as calculated in accordance with regulation 6(1); and
- (b) the amount calculated using the formula $(A - B) + C \times D$.
- (3) However, where the amount mentioned in paragraph (2)(b) is the same or greater than the amount mentioned in paragraph (2)(a), then —
- (a) the owner is treated as having already passed to the subject tenant the benefit for the property for the months of July 2020 to December 2020 on the crystallisation date; or
- (b) if the owner had passed the whole or a part of the benefit for the property for the months of July 2020 to December 2020 to the subject tenant before the crystallisation date — the whole or the part of the benefit (as the case may be) is recoverable by the owner from the tenant as a debt due to the owner.
- (4) To avoid doubt, this regulation also applies to a case where the owner of the prescribed property had passed the whole or a part of the benefit for the property relating to the months of July 2020 to December 2020 to the subject tenant before 31 July 2020, despite being required under regulation 11 or 11A to do so by a date after 31 July 2020.

[S 1019/2020 wef 19/12/2020]

- (5) In this regulation —
- (a) A is the total of the amounts of the rental relief and additional rental relief of the subject tenant for the property;

(b) B is —

- (i) where the owner is required under regulation 11(1)(a)(i)(A) to pass any benefit for the property to the subject tenant by 31 July 2020 — the amount that is treated as having been passed by the owner to the subject tenant under regulation 11B(1) and (2) (if any);
- (ii) where the owner is required under regulation 11(1)(a)(i)(B) or 11A to pass the benefit for the property relating to the months of January 2020 to June 2020 to the subject tenant by a date after 31 July 2020 — the amount that is treated as having been passed by the owner to the subject tenant under regulation 11B(3) and (4) (if any); or
[S 1019/2020 wef 19/12/2020]

(iii) in any other case — nil;

(c) C is —

- (i) where the amount calculated using the formula $A - B$ is greater than or equal to E — nil; or
- (ii) where the amount calculated using the formula $A - B$ is less than E_n — the amount calculated using the formula $F - \sum_{i=1} K_i - \sum_{i=1} L_i$;

(d) D is —

- (i) where C is a positive amount — the amount calculated using the formula $\frac{1}{j}$; or
- (ii) in any other case — nil;

(e) date M is the later of 1 July 2020 and either of the following, whichever is applicable:

- (i) where the amount calculated using the formula $O - P$ is nil — the first day on which tenant S ' lease or licence for the property commences;
- (ii) where the amount calculated using the formula $O - P$ is a positive amount — $(Q + 1)$ th day of month R ;

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- (f) $D(\text{Month}_R)$ is the number of days in month R;
- (g) E is the amount of benefit for the property relating to the months of July 2020 to December 2020 that (but for this regulation) the owner is required to pass to the subject tenant, as calculated in accordance with regulation 6(1);
- (h) F is the total of the amounts of the rental relief and additional rental relief of each of the owner's tenants of the property (including the subject tenant) in the year 2020, for the property;
- (i) I is —
- (i) where the subject tenant is tenant S — the number of days between date M and the last day of the subject tenant's lease or licence for the property; or
 - (ii) in any other case — the number of days in the period between 1 July 2020 and 31 December 2020 (both dates inclusive) for which the subject tenant is a lessee or licensee of the property;
- (j) J is the number of days between date M and 31 December 2020;
- (k) K is the following amount in relation to each of the owner's tenants of the property (including the subject tenant) in the year 2020:
- (i) where the owner is required under regulation 11(1)(a)(i)(A) to pass any benefit for the property to the tenant by 31 July 2020 — the amount that is treated as having been passed by the owner to the tenant under regulation 11B(1) and (2) (if any);
 - (ii) where the owner is required under regulation 11(1)(a)(i)(B) or 11A to pass the benefit for the property relating to the months of January 2020 to June 2020 to the tenant by a date after 31 July 2020 — the amount that is treated as having been passed by the owner to the tenant under regulation 11B(3) and (4) (if any);

[S 1019/2020 wef 19/12/2020]

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- (iii) in any other case — nil;
- (l) L is the lower of the following amounts in relation to each of the owner's tenants of the property (including the subject tenant) in the year 2020:
- (i) the amount of benefit for the property relating to the months of July 2020 to December 2020 that (but for this regulation) the owner is required to pass to the tenant, as calculated in accordance with regulation 6(1);
 - (ii) the difference between the following amounts:
 - (A) the total amounts of the rental relief and additional rental relief of the tenant;
 - (B) K;
- (m) month R is the month in the year 2020 the amount (calculated in accordance with regulation 6(1)) of benefit for the property required to be passed to tenant S in relation to which, when added to the total of such amount in relation to every previous month in that year, is the same or greater than O;
- (n) n is the total number of the owner's tenants of the property (including the subject tenant) in the year 2020;
- (o) O is the total of the amounts of the rental relief and additional rental relief of tenant S for the property;
- (p) P is —
- (i) where the owner is required under regulation 11(1)(a)(i)(A) to pass any benefit for the property to tenant S by 31 July 2020 — the amount that is treated as having been passed by the owner to tenant S under regulation 11B(1) and (2) (if any);
 - (ii) where the owner is required under regulation 11(1)(a)(i)(B) or 11A to pass the benefit for the property relating to the months of January 2020 to June 2020 to tenant S on a date after 31 July 2020 — the amount that is treated as

having been passed by the owner to tenant S under regulation 11B(3) and (4) (if any); or

[S 1019/2020 wef 19/12/2020]

(iii) in any other case — nil;

(q) Q is —

(i) where month R is the month in which tenant S' lease or licence commenced — the number calculated using the formula $\frac{Q}{T} \times D(\text{Month}_R)$, rounded up to the nearest whole number; or

(ii) where month R is not the month in which tenant S' lease or licence commenced — the number calculated using the formula $\frac{Q-U}{T} \times D(\text{Month}_R)$, rounded up to the nearest whole number;

(r) T is the amount of benefit for the property relating to month R that (but for this regulation) the owner is required to pass to tenant S, as calculated in accordance with regulation 6(1);

(s) tenant S is —

(i) the tenant of the owner for the property as at 1 July 2020; or

(ii) where the property is not leased or licensed to any tenant as at 1 July 2020, the first tenant of the owner for the property who leased or licensed the property after that day in the year 2020; and

(t) U is the total amount of benefit for the property relating to January 2020 and every month thereafter until and including the month immediately before month R that (but for this regulation) the owner is required to pass to tenant S, as calculated in accordance with regulation 6(1).

[S 1019/2020 wef 31/07/2020]

Amount to be deducted from regulation 6(3) amount

6B.—(1) This regulation applies where —

- (a) the property mentioned in regulation 6(1) is a prescribed property;
- (b) the owner of the property had passed or commenced passing the whole of the rebate amount to a tenant mentioned in regulation 6(3)(a) or (b) (called in this regulation the subject tenant) in accordance with that provision and regulation 11 or 11A;
[S 1019/2020 wef 19/12/2020]
- (c) the owner of the property is required under regulation 11 or 11A to pass the whole of the rebate amount to the subject tenant by a date after 31 July 2020; and
[S 1019/2020 wef 19/12/2020]
- (d) one or more of the owner's tenants of that property (including the subject tenant) in the year 2020 have rental relief, additional rental relief or both in relation to the property.

(2) The rebate amount mentioned in regulation 6(3) is reduced by an amount that is the total of the amounts of the rental relief and additional rental relief of each of the owner's tenants of the property (including the subject tenant) in the year 2020, for the property.

(3) However, where the amount by which the rebate amount is reduced is the same or larger than the rebate amount, then —

- (a) the owner is treated as having already passed to the subject tenant the whole of the rebate amount for the property on the crystallisation date; or
- (b) if the owner had passed the whole or a part of the rebate amount for the property to the subject tenant before the crystallisation date — the whole or the part of the rebate amount (as the case may be) is recoverable by the owner from the tenant as a debt due to the owner.

(4) To avoid doubt, this regulation also applies to a case where the owner of the prescribed property had passed the whole or a part of the rebate amount for the property to the subject tenant before 31 July

2020, despite being required under regulation 11 or 11A to do so by a date after 31 July 2020.

[S 1019/2020 wef 19/12/2020]

[S 1019/2020 wef 31/07/2020]

Prescribed amount of benefit for passing on: part of property leased or licensed to tenant

7.—(1) Subject to paragraphs (3) and (6) and regulation 7A, the amount of the benefit for any property which the owner of the property must pass to a tenant who is a lessee or licensee of a part of the property is the total of the sums calculated for each month of the year 2020 in which the tenant is such lessee or licensee, using the formula

$$\text{NR} \times 10\% \times \text{PTR}(\%) \times \frac{\text{D}}{\text{D}(\text{Month})}.$$

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(2) For the purposes of paragraph (1) —

- (a) D is the number of days in the month for which the tenant is a lessee or licensee of the part of the property;
- (b) D(Month) is the number of days in the month;
- (c) NR is the net rent payable by the tenant for the part of the property for the month; and
- (d) PTR(%) is the rate of the prescribed remission for the part of the property.

(3) Despite paragraph (1), where for any month (called in this regulation the subject month) —

- (a) the total of the amounts determined under that paragraph for every tenant who is a lessee or licensee of any part of the property in the subject month (each called in this regulation a subject tenant); and
- (b) the total of the amounts determined under that paragraph for every specified lessee and specified

licensee of the property for all past months on and after January 2020,

would together exceed the rebate amount for the property, then the amount of that rebate amount less the total of the amounts mentioned in sub-paragraph (b) (called in this regulation the remaining amount), is to be passed for the subject month as follows:

- (c) if there is more than one subject tenant — to each subject tenant on a proportionate basis;
 - (d) if there is only one subject tenant — to the subject tenant in whole.
- (4) For the purposes of paragraph (3) —
- (a) subject to sub-paragraph (b), the rebate amount for the property is the rebate amount for the property as determined in the subject month; and
 - (b) if there is a change in circumstances in the subject month resulting in a change in the rebate amount, then the rebate amount for the property is the rebate amount for the property as determined upon the change in circumstances.
- (5) For the purposes of paragraph (3)(c), the amount of the remaining amount to be passed to a subject tenant on a proportionate basis is the proportion of the remaining amount which the amount determined under paragraph (1) for the subject tenant for the subject month bears to the sum total of all amounts determined under paragraph (1) for all subject tenants for the subject month.

Illustration

Assume that the rebate amount for the property with 2 tenants is \$500 for the period between 1 January 2020 and 31 December 2020 (both dates inclusive).

Tenant A has a lease for a part of the property for the period between 1 January 2020 and 20 May 2020 (both dates inclusive). The net rent for Tenant A is the same for each month and the amount calculated under paragraph (1) for Tenant A is \$110 for each month.

Tenant B has a lease for another part of the property for the period between 1 January 2020 and 31 July 2020 (both dates inclusive). The net rent for Tenant B

is the same for each month and the amount calculated under paragraph (1) for Tenant B is \$90 each month.

For March 2020, the rebate amount for the property remaining to be passed to Tenant A and Tenant B would be

$$\$500 - \$[(110 + 90) + (110 + 90)] = \$100.$$

If the amount calculated using paragraph (1) for Tenant A for March 2020 is “X” and the amount calculated using paragraph (1) for Tenant B for March 2020 is “Y”, then the amount to be passed to Tenant A is

$$\$100 \times \left(\frac{X}{X+Y} \right),$$

and the amount to be passed to Tenant B is

$$\$100 \times \left(\frac{Y}{X+Y} \right).$$

(6) Despite paragraphs (1) and (3) and subject to paragraph (8) and regulations 5(3) and 7B, the owner may instead of passing the benefit for the property in relation to any part of the property in accordance with paragraphs (1) and (3), pass —

- (a) where the prescribed remission for the part is 100% or 60% of the property tax for the part — an amount that is not less than the amount calculated using the formula $1.2 \times AR$; and
- (b) where the prescribed remission for the part is 30% of the property tax for the part — an amount that is not less than the amount calculated using the formula $0.36 \times AR$,

to —

- (c) the tenant of the part of the property on 3 April 2020; or
- (d) if there is no tenant as mentioned in sub-paragraph (c) for the part of the property, the first tenant of that part in the period between 4 April 2020 and 31 July 2020 (both dates inclusive).

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(7) For the purposes of paragraph (6) —

- (a) AR is the average net rent payable by the tenant per month for the part of the tenant's lease or licence that falls in the period between 1 January 2020 and the last day of the month immediately before the month in which the owner passes or begins to pass the benefit (both days inclusive); and
- (b) if the duration of the lease or licence in the period between 1 January 2020 and the last day of the month immediately before the month in which the owner passes or begins to pass the benefit (both days inclusive) is less than one month, the net rent payable for that part of the month must be used to determine a proportionate amount for the whole month, which is then to be treated as the average net rent per month for the period.

(8) Where the sum total of the amounts determined for all such tenants of the property under paragraph (6)(a) or (b) would exceed the rebate amount for the property, then the benefit must be passed to those tenants on a proportionate basis.

(9) For the purposes of paragraph (8) —

- (a) subject to sub-paragraph (b), the rebate amount for the property is the rebate amount for the property as determined in the month in which the benefit is being passed; and
- (b) if there is a change in circumstances in the month in question resulting in a change in the rebate amount, then the rebate amount for the property is the rebate amount for the property as determined upon the change in circumstances.

(10) For the purposes of paragraph (8), the benefit to be passed to a tenant on a proportionate basis is the proportion of the benefit which the amount determined under paragraph (6) for the tenant bears to the sum total of all such amounts determined under paragraph (6) for all tenants.

Illustration

Assume the rebate amount for the property with 2 tenants is \$500 for the period between 1 January 2020 and 31 December 2020 (both dates inclusive).

The amount calculated under paragraph (6)(a) for Tenant A is \$300 and the amount calculated under paragraph (6)(a) for Tenant B is \$250.

The amount to be passed to Tenant A is

$$\$500 \times \left(\frac{300}{300 + 250} \right),$$

and the amount to be passed to Tenant B is

$$\$500 \times \left(\frac{250}{300 + 250} \right).$$

Amount to be deducted from regulation 7(1) amount

7A.—(1) This regulation applies where —

- (a) the part of the property mentioned in regulation 7(1) is a prescribed property;
- (b) the tenant mentioned in regulation 7(1) (called in this regulation the subject tenant) has rental relief, additional rental relief or both in relation to that part of the property;
- (c) the owner of the property is required under regulation 11 or 11A to pass any benefit for the part of the property to the subject tenant by a date after 31 July 2020; and
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- (d) benefit for the property is not passed to a tenant in accordance with regulation 7(6).

(2) The amount of benefit for that part of the property relating to the months of July 2020 to December 2020 that the owner must pass to the subject tenant is the difference between —

- (a) the amount of benefit for the property relating to the months of July 2020 to December 2020 that (but for this regulation) the owner is required to pass to the subject tenant, as calculated in accordance with regulation 7(1), read with regulation 7(3); and
- (b) the amount calculated using the formula $(A - B) + C \times D$.

(3) However, where the amount mentioned in paragraph (2)(b) is the same or greater than the amount mentioned in paragraph (2)(a), then —

- (a) the owner is treated as having passed to the subject tenant the benefit for the part of the property for the months of July 2020 to December 2020 on the crystallisation date; or
- (b) if the owner had passed the whole or a part of the benefit for the part of the property for the months of July 2020 to December 2020 to the subject tenant before the crystallisation date — the whole or the part of the benefit (as the case may be) is recoverable by the owner from the tenant as a debt due to the owner.

(4) To avoid doubt, this regulation also applies to a case where the owner of the prescribed property had passed the whole or a part of the benefit for the part of the property relating to the months of July 2020 to December 2020 to the subject tenant before 31 July 2020, despite being required under regulation 11 or 11A to do so by a date after 31 July 2020.

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(5) In this regulation, A, B, C and D have the meanings given by regulation 6A(5), except that —

- (a) every reference to the property is a reference to the part of the property mentioned in regulation 7(1);
- (b) every reference to the owner of the property is a reference to the owner of the part of the property mentioned in regulation 7(1);
- (c) every reference to the subject tenant is a reference to the subject tenant mentioned in regulation 7(1); and
- (d) every reference to regulation 6(1) is a reference to regulation 7(1), read with regulation 7(3).

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Amount to be deducted from regulation 7(6) amount

7B.—(1) This regulation applies where —

- (a) the part of the property mentioned in regulation 7(1) is a prescribed property;
- (b) the owner of the property had passed or commenced passing an amount mentioned in regulation 7(6) (as modified where applicable by regulation 7(8)) (called in this regulation the regulation 7(6) amount) for that part of the property to a tenant mentioned in regulation 7(6)(c) or (d) (called in this regulation the subject tenant) in accordance with regulation 7(6) and regulation 11 or 11A;
[S 1019/2020 wef 19/12/2020]
- (c) the owner of the property is required under regulation 11 or 11A to pass the regulation 7(6) amount for that part of the property to the subject tenant by a date after 31 July 2020; and
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- (d) one or more of the owner’s tenants for that part of the property (including the subject tenant) in the year 2020 have rental relief, additional rental relief or both in relation to the part.

(2) The regulation 7(6) amount for that part of the property is reduced by an amount that is the total of the amounts of the rental relief and additional rental relief of each of the owner’s tenants of the part of the property (including the subject tenant) in the year 2020, for that part.

(3) However, where the amount by which the regulation 7(6) amount is reduced is the same or larger than the regulation 7(6) amount, then —

- (a) the owner is treated as having already passed to the subject tenant the regulation 7(6) amount on the crystallisation date; or
- (b) if the owner had passed the whole or a part of the regulation 7(6) amount to the subject tenant before the crystallisation date — the whole or the part of the

regulation 7(6) amount (as the case may be) is recoverable by the owner from the tenant as a debt due to the owner.

(4) To avoid doubt, this regulation also applies to a case where the owner of the prescribed property had passed the whole or a part of the regulation 7(6) amount to the subject tenant before 31 July 2020, despite being required under regulation 11 or 11A to do so by a date after 31 July 2020.

[S 1019/2020 wef 31/07/2020]

[S 1019/2020 wef 19/12/2020]

Prescribed amount of benefit for passing on: portion of benefit of specified lessee or specified licensee that left before 3 April 2020

8.—(1) This regulation applies where the lease of a specified lessee or licence of a specified licensee for the whole or any part of any property to which any prescribed remission relates, ended on or after 1 January 2020 but before 3 April 2020.

(2) The owner of the property must determine the total of the amounts which would have been required to be passed under regulation 6(1) or 7(1) (and (3)) (as the case may be) to all specified lessees and specified licensees mentioned in paragraph (1) (had they remained lessees or licensees on 3 April 2020), and pass that total to each eligible tenant of the owner in the proportion which the period of the lease or licence of the eligible tenant in the specified period, bears to the total of all such periods of all eligible tenants.

(3) The obligation of the owner under paragraph (2) is in addition to the obligations of the owner under regulation 6(1) or 7(1) (and (3)) (as the case may be) (but not under regulation 6(3) or 7(6)).

(4) In this regulation —

“eligible tenant” means a tenant of the whole or any part of the property for a period that falls wholly or partly in the specified period;

“specified period” means the period between 3 April 2020 and 30 June 2020 (both dates inclusive).

Illustration

Assume that a property is wholly leased to a single specified lessee at a time.

Lessee Z has a lease for the property for the period between 1 January 2020 and 31 March 2020 (both dates inclusive).

The rebate amount for the property is \$2,000 for the period between 1 January 2020 and 31 December 2020 (both dates inclusive).

Using the formula in regulation 6(1)(a), the amount of the benefit which would have had to be passed to Lessee Z for the period between 1 January 2020 and 31 March 2020 (both dates inclusive) had Lessee Z remained a lessee on 3 April 2020, is

$$\frac{\$2,000}{12} \times (1 + 1 + 1) = \$500.$$

Tenant A has a lease for the property for the period between 15 April 2020 and 31 May 2020 (both dates inclusive).

Tenant B has a lease for the property for the period between 20 June 2020 and 31 October 2020 (both dates inclusive).

Tenant C has a lease for the property for the period between 1 November 2020 and 31 October 2021 (both dates inclusive).

The amount to be passed to Tenant A is

$$\frac{16 + 31}{(16 + 31) + 11} \times \$500.$$

The amount to be passed to Tenant B is

$$\frac{11}{(16 + 31) + 11} \times \$500.$$

No amount needs to be passed to Tenant C as Tenant C is not an eligible tenant.

Prescribed amount of benefit for passing on: increase in rebate amount resulting from change in circumstances

9.—(1) This regulation applies where —

- (a) an owner of property has passed or begun to pass to a tenant of the owner the benefit or any part of the benefit for the property on the basis of a certain rebate amount for the property (called in this regulation the old rebate amount);

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- (b) the Comptroller subsequently notifies the owner of an increase in rebate amount as a result of a change in circumstances that occurred in the year 2020 (called in this regulation the new rebate amount); and
- (c) the benefit or part of the benefit mentioned in paragraph (a) would have been more, if it had been determined on the basis of the new rebate amount.
- (2) The owner must pass to the tenant —
- (a) where the amount of the benefit already passed or begun to be passed was determined under regulation 6(3) (read with regulation 6B) or regulation 7(6) and (8) (read with regulation 7B) based on the old rebate amount, the difference between —
- (i) the amount that the owner would have passed or begun to pass to the tenant had the rebate amount been the new rebate amount; and
- (ii) the amount passed or begun to be passed to the tenant based on the old rebate amount; and
- [S 1019/2020 wef 31/07/2020]*
- (b) where the amount of the benefit already passed or begun to be passed was determined under regulation 6(1) (read with regulation 6A), regulation 7(1) and (3) (read with regulation 7A) or regulation 8 based on the old rebate amount in relation to any period, the difference between —
- (i) the amount that the owner would have passed or begun to pass to the tenant in relation to that period had the rebate amount been the new rebate amount for that period; and
- (ii) the amount passed or begun to be passed to the tenant in relation to that period based on the old rebate amount.

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PART 4

PRESCRIBED MANNER OF AND TIME FOR PASSING ON

Prescribed manner of passing on

10.—(1) An owner of property must pass the benefit for the property to a tenant of the owner using any of the following methods or any combination of them:

- (a) a single monetary payment;
- (b) 2 or more instalments of monetary payments, whether or not of the same amount;
- (c) a single off-set against or reduction of any rent or licence fee payable on or after 3 April 2020 by the tenant under the tenant's lease or licence agreement with the owner;
- (d) 2 or more instalments of off-sets against or reductions of any rent or licence fee payable on or after 3 April 2020 by the tenant under the tenant's lease or licence agreement with the owner, whether or not of the same amount.

(2) To avoid doubt, nothing in paragraph (1) prevents the owner from adopting different methods mentioned in that paragraph in respect of different tenants of the owner.

Prescribed time of passing on

11.—(1) Subject to paragraph (2) and regulation 11A, an owner of property must pass the benefit for the property to a tenant of the owner by the following times:

- (a) where the owner passes the benefit under regulation 6(1) or 7(1) or (3) —
 - (i) for the part of the benefit relating to the months of January 2020 to June 2020 —
 - (A) if the notice from the Comptroller for the rebate amount for the property is served on the owner before 1 June 2020 — 31 July 2020; and
 - (B) if the notice from the Comptroller for the rebate amount for the property is served on the

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- owner on or after 1 June 2020 — the last day of the period of 60 days after the day of service of the notice on the owner; and
- (ii) for the part of the benefit relating to the months of July 2020 to December 2020 —
- (A) if the notice from the Comptroller for the rebate amount for the property is served on the owner before 1 November 2020 — 31 December 2020; and
- (B) if the notice from the Comptroller for the rebate amount for the property is served on the owner on or after 1 November 2020 — the last day of the period of 60 days after the day of service of the notice on the owner;
- (b) where the owner passes the benefit under regulation 6(3), 7(6) or (8) or 8 —
- (i) if the notice from the Comptroller for the rebate amount for the property is served on the owner before 1 June 2020 — 31 July 2020; and
- (ii) if the notice from the Comptroller for the rebate amount for the property is served on the owner on or after 1 June 2020 — the last day of the period of 60 days after the day of service of the notice on the owner;
- (c) where the owner passes the difference under regulation 9(2)(a) — the later of 31 July 2020 and the last day of the period of 60 days after the day of service of the notice mentioned in regulation 9(1)(b) on the owner;
- (d) where the owner passes the difference under regulation 9(2)(b) —
- (i) for the difference relating to the months of January 2020 to June 2020 — the later of 31 July 2020 and the last day of the period of 60 days after

the day of service of the notice mentioned in regulation 9(1)(b) on the owner; and

- (ii) for the difference relating to the months of July 2020 to December 2020 — the later of 31 December 2020 and the last day of the period of 60 days after the day of service of the notice mentioned in regulation 9(1)(b) on the owner.

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[S 1019/2020 wef 19/12/2020]

(2) Despite paragraph (1), where —

- (a) the owner passes the benefit or part of the benefit for any property to a tenant of the owner on 2 or more days using —

- (i) a method in regulation 10(1)(b) or (d); or
(ii) a combination of 2 or more methods in regulation 10(1); and

- (b) the tenant agrees to such manner of passing the benefit or part of the benefit,

then, the owner need only begin to pass the benefit or part of the benefit by the applicable date in paragraph (1), with the rest of the benefit or part of the benefit to be passed by the time or times agreed with the tenant.

Prescribed time of passing on where notice of cash grant is served or request is made for notice of cash grant

11A.—(1) Despite regulation 11, where —

- (a) a notice of cash grant is issued for the property; or
(b) a written request is made by the owner of the property or a tenant of the property to the Authority for the issue of such notice of cash grant for the property,

on or before the last day (called in this regulation day A) by which the owner of the property is (but for this regulation) required to pass the benefit (called in this regulation the subject benefit) for the property to a tenant of the owner under regulation 11(1)(a)(i)(B) or (ii)(A) or

(B) or (b)(ii), then paragraphs (2) and (3) apply in respect of that benefit.

(2) Subject to paragraph (3), the owner of the property must pass the subject benefit by the following times:

- (a) where regulation 11(1)(a)(i)(B) or (b)(ii) applies and a notice of cash grant is issued to the owner of the property (other than pursuant to a request under paragraph (1)(b)) on or before day A — the last day of the period of 59 days after the crystallisation date;
- (b) where regulation 11(1)(a)(i)(B) or (b)(ii) applies and a request mentioned in paragraph (1)(b) is made on or before day A —
 - (i) if the request is refused — the last day of the period of 60 days after the day on which the Authority informs the owner of its refusal; or
 - (ii) if the request is accepted and a notice of cash grant is issued to the owner of the property — the last day of the period of 59 days after the crystallisation date;
- (c) where regulation 11(1)(a)(ii)(A) or (B) applies and a notice of cash grant is issued to the owner of the property (other than pursuant to a request under paragraph (1)(b)) on or before day A — the later of 31 December 2020 and the last day of the period of 59 days after the crystallisation date;
- (d) where regulation 11(1)(a)(ii)(A) or (B) applies and a request mentioned in paragraph (1)(b) is made on or before day A —
 - (i) if the request is refused — the later of 31 December 2020 and the last day of the period of 60 days after the day on which the Authority informs the owner of its refusal; or
 - (ii) if the request is accepted and a notice of cash grant is issued to the owner of the property — the later of 31 December 2020 and the last day of the period of 59 days after the crystallisation date.

(3) Despite paragraph (2), where —

(a) the owner passes the benefit or part of the benefit for any property to a tenant of the owner on 2 or more days using —

(i) a method in regulation 10(1)(b) or (d); or

(ii) a combination of 2 or more methods in regulation 10(1); and

(b) the tenant agrees to such manner of passing the benefit or part of the benefit,

then the owner need only begin to pass the benefit or part of the benefit by the applicable date in paragraph (2) with the rest of the benefit or part of the benefit to be passed by the time or times agreed with the tenant.

[S 1019/2020 wef 19/12/2020]

Circumstances under which part or whole of benefit is treated as having been passed on

11B.—(1) Where —

(a) the owner of any property fails to pass the benefit for the property to a tenant of the owner by 31 July 2020 in accordance with regulation 11(1)(a)(i)(A) or (b)(i); and

(b) the tenant has rental relief, additional rental relief or both in relation to that property,

then —

(c) the owner of the property is treated as having passed the amount mentioned in paragraph (2) of the benefit to the tenant on the crystallisation date; or

(d) if the owner of the property had passed the amount of the benefit mentioned in sub-paragraph (a) to the tenant before the crystallisation date — the amount mentioned in paragraph (2) is recoverable by the owner from the tenant as a debt due to the owner.

(2) For the purposes of paragraph (1), the amount is the lower of the following:

- (a) the amount of the benefit mentioned in paragraph (1)(a);
- (b) the amount of rental relief, additional rental relief or both of the tenant for the property.

(3) Where —

- (a) the owner of any property is required under regulation 11(1)(a)(i)(B) or 11A to pass the benefit for the property relating to the months of January 2020 to June 2020 to the subject tenant by a date after 31 July 2020; and

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- (b) the tenant has rental relief, additional rental relief or both in relation to that property,

then —

- (c) the owner of the property is treated as having passed the amount mentioned in paragraph (4) of the benefit to the tenant on the crystallisation date;
- (d) if the owner of the property had passed a part (called in this sub-paragraph A) of the amount of the benefit (called in this sub-paragraph B) to the tenant before the crystallisation date, and the total of A and the amount mentioned in paragraph (4) (called in this sub-paragraph C) is greater than B — an amount calculated using the formula $(A + C) - B$ is recoverable by the owner from the tenant as a debt due to the owner; or
- (e) if the owner of the property had passed the amount of the benefit to the tenant before the crystallisation date — the amount mentioned in paragraph (4) is recoverable by the owner from the tenant as a debt due to the owner.

(4) For the purposes of paragraph (3), the amount is the lower of the following:

- (a) the amount of the benefit mentioned in paragraph (3)(a);
- (b) the amount of rental relief, additional rental relief or both of the tenant for the property.

[S 1019/2020 wef 31/07/2020]

PART 5
MISCELLANEOUS

Information to be provided by owner to tenant

12.—(1) An owner of property must provide a tenant of the owner the following information concerning the passing of the benefit for the property, by the time the owner passes or begins to pass the benefit or any part of the benefit to the tenant:

- (a) the amount or extent of the benefit which the owner is passing to the tenant;
- (b) the method or methods by which the owner is passing the benefit to the tenant;
- (c) the time or various times when the owner will be passing the benefit to the tenant;
- (d) whether the owner is passing the benefit to the tenant in accordance with regulation 6(1) (read with regulation 6A), regulation 6(3) (read with regulation 6B), regulation 7(1) (read with regulations 7(3) and 7A), regulation 7(6) (read with regulations 7(8) and 7B) or regulation 8 or 9, as the case may be;
[S 1019/2020 wef 19/12/2020]
- (e) whether the Authority has issued a notice of cash grant for the property or the part of the property that is leased or licensed to the tenant;
[S 1019/2020 wef 19/12/2020]
- (f) if the Authority has issued a notice of cash grant for the property or the part of the property —
 - (i) whether an earlier or a later tenant of the owner for the property or part in the year 2020 is a PTO or a tenant in a PTO chain of the property or part;
 - (ii) if an earlier or a later tenant of the owner for the property or part in the year 2020 is a PTO or a tenant in a PTO chain of the property or part, the amount of rental relief, additional rental relief or both of that tenant for the property or part; and

- (iii) whether an application has been made for a determination in relation to the property or part, or a landlord or tenant of the property or part under section 19M(2) of the Act and the determination made in respect of such application;

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- (g) if the Authority has not issued a notice of cash grant for the property or part of the property leased or licensed to the tenant and the owner has made a request to the Authority for such a notice, that fact.

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(2) Where the tenant so requires, the owner must also provide the tenant with —

- (a) a copy of the notice from the Comptroller for the rebate amount for the property;
- (b) a copy of the notice of cash grant for the property or the part of the property leased or licensed to the tenant; and
- (c) any other information on the rebate amount for the property or the portion of the rebate amount in relation to any part of the year.

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(3) Where the lease or licence of a tenant with an owner of property begins after 3 April 2020 for the whole or a part of the property, the owner must, if the tenant so requires, inform the tenant as to whether or not the owner has passed the benefit or any part of the benefit for the property or part of the property (as the case may be) to an earlier tenant of the owner under regulation 6(3) (read with regulation 6B) or regulation 7(6) (read with regulations 7(8) and 7B).

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(3A) The owner must, if the tenant requires, inform the tenant —

- (a) whether the owner has passed or has agreed to pass to an earlier or a later tenant of the property or a part of the property any benefit for the property or part, and by reason of which the owner is exempt from section 29(2) of the Act under regulation 13(1) or (2) in relation to the earlier or later tenant; and

- (b) the amount and extent of the benefit which was passed or agreed to be passed to the earlier or later tenant.

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- (4) An owner who fails to comply with paragraph (1), (2), (3) or (3A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

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Exemption

13.—(1) To avoid doubt, where an owner of property has passed the benefit for the property to every tenant of the owner to whom it is to be passed under Part 3 in accordance with Parts 3 and 4, then the owner is exempt from section 29(2) of the Act in relation to any other lessee or licensee of the property or part of the property.

(2) Subject to paragraphs (3) and (4), where the owner of any property has, at any time before 3 April 2020, in relation to any lessee or licensee with whom the owner has a lease agreement or licence agreement for the whole or any part of the property —

- (a) passed the benefit for the property to such lessee or licensee; or
- (b) entered into a contract with such lessee or licensee to pass the benefit for the property to the lessee or licensee,

then the owner is exempt from section 29(2) of the Act in relation to any lessee or licensee of the property or part of the property.

(3) The exemption in paragraph (2)(a) applies only if —

- (a) the owner did not subject the passing of the benefit to any condition; and
- (b) the manner of the passing is by any of the following methods or any combination of them:
- (i) a single monetary payment;
 - (ii) 2 or more instalments of monetary payments, whether or not of the same amount;
 - (iii) a single off-set against or reduction of any rent or licence fee payable before 3 April 2020 by the lessee

or licensee under the lease or licence agreement with owner;

- (iv) 2 or more instalments of off-sets against or reductions of any rent or licence fee payable before 3 April 2020 by the lessee or licensee under the lease or licence agreement with the owner, whether or not of the same amount.

(4) The exemption in paragraph (2) applies —

- (a) in relation to paragraph (2)(a) — only to the extent of the total amount or total value of the benefit in fact passed; and
- (b) in relation to paragraph (2)(b) — only to the extent of the total amount or total value of the benefit that is the subject of all such contracts.

(5) To avoid doubt, paragraph (2) applies whether or not the benefit is being passed to all the lessees or licensees of the owner at the property and, if there is one or more contracts for the passing of the benefit under that paragraph, whether or not every lessee or licensee is a party to the contract or any of the contracts.

(6) To avoid doubt, section 29(2) of the Act applies to any positive difference between —

- (a) the rebate amount for the property (as determined on the day on which the benefit, or the day on which the final part of the benefit (as the case may be), is passed to the tenant); and
- (b) the total amount or total value of the benefit mentioned in paragraph (4)(a) or (b), as the case may be.

(7) The owner must pass the difference mentioned in paragraph (6) to the tenants in accordance with these Regulations modified by replacing any reference to the rebate amount with a reference to the difference.

Recovery of amount paid by owner of property**14.—(1) Where —**

- (a) the owner of the property has before 19 December 2020 passed an amount of the benefit for the property to a tenant of the property;
- (b) the amount of the benefit passed to the tenant would (but for the retrospective application of regulation 6A, 6B, 7A or 7B (as the case may be)) have been in accordance with the provisions of Parts 3 and 4; and
- (c) the amount of the benefit required to be passed to the tenant is less than the amount that was passed to the tenant because of regulation 6A, 6B, 7A or 7B (whichever is applicable),

then the difference between the amounts in sub-paragraphs (b) and (c) is recoverable by the owner from the tenant as a debt due to the owner.

(2) Where —

- (a) the owner of the property passes an amount of the benefit for the property to a tenant of the property on or after 19 December 2020 in accordance with Parts 3 and 4 as in force on or after that date but before the crystallisation date; and
- (b) the amount of benefit that is required to be passed by the owner to the tenant is less than the amount that was passed to the tenant because of regulation 6A, 6B, 7A or 7B (whichever is applicable),

the difference between the amounts in sub-paragraphs (a) and (b) is recoverable by the owner from the tenant as a debt due to the owner.

[S 1019/2020 wef 19/12/2020]

Made on 11 May 2020.

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[R050.003.0002 V14; AG/LEGIS/SL/65C/2020/7 Vol. 1]