

SCHEDULE

Article 3

PART 1

ACTION UNDER THE 1985 ACT RELATING TO UNFITNESS

Repair notices

1.—(1) A repair notice served under section 189 or 190 of the 1985 Act before the commencement date ceases to have effect on that date unless it is a notice to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a repair notice—

- (a) which has become operative as mentioned in section 189(4) or 190(4) of the 1985 Act before the commencement date; or
- (b) in respect of which an appeal has been brought under section 191 of that Act before that date.

(3) During the period beginning on the commencement date and ending on 15 June 2007, the repeal of sections 189 to 208, 345, 398, 604 and 604A of, and Schedule 10 to, the 1985 Act do not have effect in relation to a repair notice to which sub-paragraph (2) applies.

(4) Where—

- (a) an appeal in respect of a repair notice to which sub-paragraph (2) applies is allowed; and
- (b) the judge includes in the judgment a finding such as is mentioned in section 191(3) of the 1985 Act,

the local housing authority must take the finding into account if they subsequently consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises concerned.

(5) A repair notice to which sub-paragraph (2) applies ceases to have effect on 16 June 2007 except in relation to anything done in connection with the notice before that date.

(6) The repeal of section 191(3A)(b) of the 1985 Act does not have effect in relation to an order made by a court under that paragraph before that date.

(7) The amendment made by paragraph 4(2) of Schedule 15 to the 2004 Act (which amends the Land Compensation Act 1973) does not have effect in relation to a repair notice to which sub-paragraph (2) applies.

Closing orders

2.—(1) A closing order made under section 264 or 368(4) of the 1985 Act before the commencement date ceases to have effect on that date unless it is an order to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a closing order—

- (a) which has become operative as mentioned in section 268(2) of the 1985 Act before the commencement date; or
- (b) in respect of which an appeal has been brought under section 269 of that Act before that date.

(3) During the period beginning on the commencement date and ending on 15 June 2008, the following does not have effect in relation to a closing order to which sub-paragraph (2) applies—

- (a) the repeal of sections 264, 267(2) and (3), 269(2A) and (3A), 276 to 278, 368, 395, 396, 397, 604 and 604A of the 1985 Act;

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- (b) the repeals in sections 317, 319(1)(b) and 323 of that Act; and
- (c) the amendments made by section 48(2) and (4) of, and paragraphs 13, 14, 22, 26, 27 and 33 of Schedule 15 to the 2004 Act.

(4) Where—

- (a) an appeal in respect of a closing order to which sub-paragraph (2) applies is allowed; and
- (b) the judge includes in the judgment a finding such as is mentioned in section 269(3A) of the 1985 Act,

the local housing authority must take the finding into account if they subsequently consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises concerned.

(5) A closing order to which sub-paragraph (2) applies ceases to have effect on 16 June 2008 except in relation to anything done in connection with the order before that date.

(6) The amendments made by—

- (a) paragraphs 3, 4(3), 5 and 6 of Schedule 15 to the 2004 Act (which amend the Land Compensation Act 1973); and
- (b) paragraphs 30 and 31 of that Schedule (which substitute compensation provisions of the Housing Act 1985),

do not have effect in relation to a closing order to which sub-paragraph (2) applies.

Demolition orders

3.—(1) A demolition order made under section 265 or 279 of the 1985 Act before the commencement date ceases to have effect on that date unless it is an order to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a demolition order—

- (a) which has become operative as mentioned in section 268(2) of the 1985 Act before the commencement date; or
- (b) in respect of which an appeal has been brought under section 269 of that Act before that date.

(3) During the period beginning on the commencement date and ending on 15 June 2008, the following do not have effect in relation to a demolition order to which sub-paragraph (2) applies—

- (a) the repeal of sections 269(2A) and (3A), 604 and 604A of the 1985 Act;
- (b) the repeals in section 323 of that Act; and
- (c) the amendments made by sections 46 and 48(2) to (4) of, and paragraphs 13 to 18, 21, 22, 26, 27, and 33 of Schedule 15 to the 2004 Act.

(4) Where—

- (a) an appeal in respect of a demolition order to which sub-paragraph (2) applies is allowed; and
- (b) the judge includes in the judgment a finding such as is mentioned in section 269(3A) of the 1985 Act,

the local housing authority must take the finding into account if they subsequently consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises concerned.

(5) During the period mentioned in sub-paragraph (3)—

- (a) section 275 of the 1985 Act (demolition orders: substitution of closing orders) has effect in relation to a demolition order to which sub-paragraph (2) applies as if—
 - (i) in subsection (1) the words “and make a closing order as respects the premises” were omitted; and
 - (ii) for subsection (2) there were substituted—
 - “(2) The authority must serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a demolition order as respects the premises.”; and
 - (b) subsection (2) of section 304 of the 1985 Act (closing order to be made in respect of listed building subject to section 265) has effect in relation to such an order as if for the words after “operative” there were substituted the words “and they must serve notice that the demolition order has been determined on every person on whom they would be required by section 268 to serve a copy of a demolition order as respects the premises”.
- (6) A demolition order to which sub-paragraph (2) applies cease to have effect on 16 June 2008 except in relation to anything done in connection with the order before that date.
- (7) The amendments made by—
- (a) paragraphs 3, 4(3), 5 and 6 of Schedule 15 to the 2004 Act; and
 - (b) paragraphs 30 and 31 of that Schedule,
- do not have effect in relation to a demolition order to which sub-paragraph (2) applies.

Obstructive building orders

4. An obstructive building order served under section 284 of the 1985 Act before the commencement date ceases to have effect on that date except in relation to anything done in connection with the order before that date.

Clearance areas

5.—(1) The amendments made by section 47 of, and paragraphs 19, 22, 26 and 27 of Schedule 15 to, the 2004 Act do not have effect in relation to an area declared to be a clearance area under section 289(3)(b) of the 1985 Act before the commencement date.

(2) This sub-paragraph applies where, before the commencement date, a local housing authority—

- (a) have served notice under section 289(2B)(a) of the 1985 Act of intention to include a building in an area which is to be a clearance area; but
 - (b) have not passed a resolution under section 289(3)(b) of that Act declaring the area to be a clearance area.
- (3) Where sub-paragraph (2) applies—
- (a) the notice mentioned in paragraph (a) of that sub-paragraph ceases to have effect; and
 - (b) the requirements of section 289(2B)(b) and (c) and (2F) cease to apply to the local housing authority.

Purchase of houses liable to be demolished or closed

6.—(1) A notice of determination to purchase premises served under section 300(2)(a) of the 1985 Act before the commencement date ceases to have effect on that date unless it is a notice to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a notice of determination—

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- (a) which has become operative under section 268(2) of the 1985 Act(1) before the commencement date; or
- (b) in respect of which an appeal has been brought under section 269 of that Act before that date.

(3) The amendments made by section 48(2) of, and paragraphs 13, 14, 20, 21, 26 and 27 of Schedule 15 to, the 2004 Act do not have effect in relation to a notice of determination to which sub-paragraph (2) applies.

Owner’s proposals for re-development

7.—(1) This paragraph applies in relation to any proposals submitted to a local housing authority under subsection (1) of section 308 of the 1985 Act (approval of owner’s proposals for re-development) before the commencement date.

(2) Where notice under subsection (2) of that section has not been given before that date, the authority ceases to be subject to the requirements of that subsection on and after that date.

(3) Subject to sub-paragraph (4), any notice given under that subsection before that date ceases to have effect except in relation to anything done in connection with it before that date.

(4) If the authority, on or after that date, consider taking action of a kind mentioned in section 5(2) or 7(2) of the 2004 Act in respect of the premises to which such a notice relates, the authority must, when making their decision, take into account the notice and the extent to which re-development has been proceeded with in accordance with the proposals and within the time-limits specified in the notice (subject to any variation or extension approved by the authority before that date).

Owner’s proposals for improvement or alteration

8.—(1) Subject to sub-paragraph (2), any proposals submitted by an owner, or certificate issued by a local housing authority, under section 310 of the 1985 Act (owner’s improvements or alterations) before the commencement date cease to have effect on that date except in relation to anything done in connection with them before that date.

(2) The repeal of section 311(2) of the 1985 Act (proposals to be treated as objection to compulsory purchase order) does not have effect in relation to proposals—

- (a) submitted by an owner under section 310 of that Act; and
- (b) transmitted by the local housing authority to the National Assembly for Wales under section 311(1) of that Act,

before the commencement date.

Authorisation by court of execution of works on unfit premises etc.

9. The amendments made by section 48(5) of, and paragraphs 25 to 27 of Schedule 15 to, the 2004 Act do not have effect in relation to an application made to the court under section 318 of the 1985 Act before the commencement date.

Deferred action notices etc.

10.—(1) Subject to sub-paragraph (3), a deferred action notice served under section 81 of the Housing Grants, Construction and Regeneration Act 1996 (“the 1996 Act”) before the commencement date ceases to have effect on that date except in relation to anything done in connection with the notice before that date.

(1) Section 300(2)(b) of the Housing Act 1985 applies sections 268(2) and 269(1), (2), (3) and (6) of that Act to a notice under section 300 as they apply to a demolition or closing order.

(2) The repeal of section 86 of the 1996 Act (unfitness for human habitation etc: power to improve enforcement procedures) does not have effect in relation to any appeal brought under section 191 (repair notices) or 269 (closing and demolition orders) of the 1985 Act before the commencement date.

(3) The repeal of sections 87 (unfitness for human habitation etc: power to charge for enforcement action) and 88 (recovery of charge for enforcement action) do not have effect in relation to—

- (a) any action of a kind mentioned in section 87(1) of that Act which has been taken before the commencement date; or
- (b) an appeal such as is mentioned in section 87(6) of that Act which has been brought before that date.

PART 2

MEASURES RELATING TO HOUSES IN MULTIPLE OCCUPATION UNDER PART 11 OF THE HOUSING ACT 1985

Interpretation of Part

1.—(1) In this Part, “relevant converted block of flats” means a building or a part of a building which is—

- (i) a converted block of flats to which section 257 of the 2004 Act applies; and
- (ii) a house in multiple occupation for the purposes of Part 11 of the 1985 Act;
 - (b) “prescribed HMO” means a HMO⁽²⁾ that falls within the description prescribed by the National Assembly for Wales when an Order under section 55 of the 2004 Act comes into force; and
 - (c) “relevant scheme” means a registration scheme made under section 346 of the 1985 Act containing any of the control provisions or special control provisions described in section 347, 348, 348A, 348B, 348C, 348D, 348E or 348F of that Act.

(2) The repeal of sections 345, 398, 399 and 400 of the 1985 Act (which give meanings of expressions used in Part 11 of the 1985 Act) do not have effect in so far as those sections are relevant to the construction of any provision of this Part which refers to Part 11 of that Act or any provision of that Part 11.

Registration Schemes

2.—(1) Subject to sub-paragraph (2), during the period beginning on the commencement date and ending on the date when regulations made by the National Assembly for Wales under section 61(5) of the 2004 Act come into force, the repeal of sections 346, 346A, 346B, 347, 348, 348A to 348G, 350, 351 and 395 to 397 of the 1985 Act do not have effect in relation to any registration scheme which—

- (a) conforms to a model scheme prepared by the National Assembly for Wales under section 346B of the 1985 Act; or
- (b) is confirmed by the National Assembly for Wales before the commencement date,

in so far as such scheme applies to a relevant converted block of flats.

(2) No new registration scheme may be made under section 346(1) on or after the commencement date.

(2) For the meaning of HMO *see* section 77 of the 2004 Act.

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(3) Notwithstanding the repeal of sections 346 and 347 of the 1985 Act, a local housing authority may use the information contained in any register it has compiled and maintained under section 346—

- (a) for any purpose connected with the exercise of any of the authority's functions under Parts 1 to 4 of the 2004 Act in relation to HMOs; or
- (b) for the purposes of investigating whether any offence has been committed under any of those Parts or under Part 11 of the 1985 Act in relation to HMOs.

Areas deemed to be designated under section 56 of the 2004 Act

3.—(1) This sub-paragraph applies to any area for which a local housing authority have made a relevant scheme.

(2) On the commencement date a local housing authority is deemed to have designated, under section 56(1) of the 2004 Act, each area to which sub-paragraph (1) applies as subject to additional licensing in relation to the HMOs registered under such a scheme.

(3) A designation deemed to have been made under sub-paragraph (2) comes into force on the commencement date.

(4) The requirements of sections 56(2) to (6), 57, 58 and 59(1) and (2) of the 2004 Act do not apply in relation to designations that are deemed to have been made under sub-paragraph (2).

(5) Sub-paragraphs (6), (7) and (8) apply to a designation deemed to have been made under sub-paragraph (2).

(6) Within the period of three months beginning on the commencement date the local housing authority must publish a notice stating which areas in its district are designated areas as a result of being deemed to be designated areas under sub-paragraph (2) in the manner described in sub-paragraph (7).

(7) The notice must be published in accordance with regulations made by the National Assembly for Wales under sections 59 and 60 of the 2004 Act.

(8) Section 60 of the 2004 Act (duration, review and revocation of designation) applies to a designation deemed to have been made under subsection (2) and, for the purposes of subsection (2) of that section, the local housing authority is deemed to have specified 16 June 2009 as the time at which that designation ceases to have effect.

HMOs registered under certain relevant schemes: transitional arrangements relating to introduction of licensing

4.—(1) Subject to sub-paragraph (2), this paragraph applies to an HMO which immediately before the commencement date is registered under a relevant scheme and is either—

- (a) a prescribed HMO; or
- (b) situated within an area in respect of which a designation is deemed to have been made under paragraph 3(2).

(2) This paragraph does not apply to an HMO which is a converted block of flats to which section 257 of the 2004 Act applies.

(3) A local housing authority is deemed to have granted a licence in respect of a HMO to which this paragraph applies to any person who, before the commencement date, was recorded on the register authorised by the relevant scheme as the person managing the HMO.

(4) Subject to the following sub-paragraphs, a licence deemed to have been granted under sub-paragraph (3) must—

- (a) be treated for all purposes of the 2004 Act as a licence under Part 2 of that Act;

- (b) be deemed to specify in it the commencement date as the date the licence comes into force;
 - (c) unless previously terminated by section 68(7) or revoked under section 70 of the 2004 Act, continue in force until the date that the HMO's registration under the relevant scheme would have expired⁽³⁾; and
 - (d) be deemed to have been granted on the same conditions as those attached to the registration under the relevant scheme.
- (5) The conditions on which such a licence are deemed to have been granted do not include any conditions attaching to a HMO's registration under a relevant scheme which relates to—
- (a) a repair notice served under sections 189 or 190 of the 1985 Act;
 - (b) a notice served under section 352 of that Act (power to require execution of works to render premises fit for number of occupants); or
 - (c) an occupancy direction made under section 348D of that Act which could not be imposed as a condition under section 67(2) of the 2004 Act.
- (6) Within the period of three months beginning on the commencement date the local housing authority must—
- (a) send to the person to whom the licence is deemed to have been granted under sub-paragraph (3) ("the licence holder") particulars of the licence including—
 - (i) the conditions of the licence; and
 - (ii) the date of expiry of the licence; and
 - (b) if the licence expires less than 6 months after the commencement date, send to the licence holder a notice informing the licence holder of the need to apply for a new licence on the expiry of the licence.
- (7) Schedule 4 (licences under Parts 2 and 3: mandatory conditions) and Part 1 of Schedule 5 (licences under Parts 2 and 3: procedure and appeals) to the 2004 Act do not apply in relation to a licence deemed to have been granted under sub-paragraph (3).
- (8) Registration of an HMO under a relevant scheme in respect of which a licence is deemed to have been granted under sub-paragraph (3) ceases to have effect on the commencement date.
- (9) The licence holder must not be charged for any costs incurred by the local housing authority taking any action under this paragraph.

Applications for HMO registration outstanding on the commencement date: transitional arrangements

5.—(1) This paragraph applies to an application for registration under a relevant scheme of a prescribed HMO or a HMO which is situated within an area in respect of which a designation is deemed to have been made under paragraph 3(2)—

- (a) which has been made to a local housing authority before the commencement date and not been withdrawn; and
- (b) on which that authority has not made a decision before that date.

(2) The authority must reach its decision on the application as it would have done if Part 11 of the 1985 Act had not been repealed.

(3) Where the authority decides that the HMO satisfies the conditions for registration under a relevant scheme, it must not register it but must instead grant a licence to the person specified in the application as the person managing the HMO—

(3) By section 346A(2)(a) of the 1985 Act registration under a scheme made under section 346 is for a period of five years from the date of registration.

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- (a) for a period of five years beginning on the commencement date; and
 - (b) subject to the same conditions (other than any condition of a description mentioned in paragraph 4(5)(a), (b) or (c)) that it would have imposed if it had registered the HMO under the relevant scheme.
- (4) Where the authority decides that the HMO does not satisfy the conditions for registration under the scheme, it must—
- (a) inform the applicant of the need to apply for a licence under section 63 of the 2004 Act; and
 - (b) where the authority provides applicants for a licence with a form for making such an application, supply the applicant with a copy of the form.
- (5) The licence holder must not be charged for any costs incurred by the local housing authority taking any action under this paragraph.
- (6) Where an applicant to whom sub-paragraph (4) applies has paid a fee for the application for registration under a relevant scheme, the applicant must not be required to pay a fee for the application for a licence under section 63 of the 2004 Act.

Fitness of a house in multiple occupation for the number of occupants

- 6.—(1) During the period beginning on the commencement date and ending on the date when regulations made by the National Assembly for Wales under section 61(5) of the 2004 Act come into force, the repeal of sections 352, 352A or 353, do not have effect in relation to a HMO which is a relevant converted block of flats.
- (2) During the period beginning on the commencement date and ending on 15 June 2007—
- (a) the repeal of sections 352, 352A and 353 of, and Schedule 10 to, the 1985 Act do not have effect in relation to any notice served under section 352(1) of that Act before the commencement date; and
 - (b) the repeal of sections 354, 355, 356, 395, 396 or 397 of the 1985 Act do not have effect in relation to the commission of any offence committed before the commencement date under—
 - (i) subsection (2) of section 355 of that Act; or
 - (ii) subsection (2) of section 356 of that Act.
- (3) In relation to an appeal brought under subsection (2) of section 357 of the 1985 Act before the commencement date a decision of a court to vary, or not to revoke, a direction under section 354 of that Act does not have effect.

Overcrowding notices

- 7.—(1) A notice served under section 358(1) of the 1985 Act (service of overcrowding notice) before the commencement date ceases to have effect on that date unless it is a notice to which sub-paragraph (2) applies.
- (2) This sub-paragraph applies to a notice—
- (a) which has become operative under section 358(3) of the 1985 Act before the commencement date; or
 - (b) in respect of which an appeal has been brought under section 362 of that Act before that date.
- (3) During the period beginning on the commencement date and ending on 15 June 2008 the repeal of sections 358 to 364, 395, 396 and 397 of the 1985 Act will not have effect in relation to a notice served to which sub-paragraph (2) applies.

Means of escape from fire

8. During the period beginning on the commencement date and ending on 15 June 2008 the repeal of sections 365, 368, 395, 396 or 397 of the 1985 Act will not have effect in relation to an undertaking accepted by a local housing authority under subsection (2) of section 368 of that Act before the commencement date.

Standards of Management

9.—(1) During the period beginning on the commencement date and ending on the date when regulations made by the National Assembly for Wales under section 61(5) of the 2004 Act come into force, the repeal of sections 369, 372, 373 and 378 of the 1985 Act will not have effect in relation to a relevant converted block of flats.

(2) During the period beginning on the commencement date and ending on 15 June 2007—

- (a) the repeal of sections 369, 395, 396 and 397 of the 1985 Act will not have effect in relation to the commission of any offence under regulations made under section 369 of that Act before the commencement date;
- (b) the repeal of section 372 of the 1985 Act does not have effect in relation to any notice served under subsection (1) of that section before that date; and
- (c) the repeal of section 373 of the 1985 Act does not have effect in relation to an appeal brought under subsection (1) of that section before that date.

Works carried out by a local housing authority and enforcement

10.—(1) During the period beginning on the commencement date and ending on the date when regulations made by the National Assembly for Wales under section 61(5) of the 2004 Act come into force, the repeal of section 375 does not have effect in relation a relevant converted block of flats.

(2) During the period beginning on the commencement date and ending on 15 June 2008 the repeal of sections 375, 376, 377, 377A and 378 of, and Schedule 10 to, the 1985 Act will not have effect in relation to any notice served under section 352 or 372 of that Act before the commencement date.

Control Orders

11.—(1) This paragraph applies to a control order made under section 379(1) of the 1985 Act before the commencement date.

(2) The repeal of sections 379 to 397 of, and Schedule 13 to, the 1985 Act will not have effect in relation to a control order to which this paragraph applies.

(3) For so long as a control order to which this paragraph applies continues in force on and after the commencement date, the provisions of Part 2 and 3 and Chapter 1 of Part 4 of the 2004 Act will not have effect in relation to the house which is subject to the order.

(4) This sub-paragraph applies to a house which is subject to a control order to which this paragraph applies if, on the date, or immediately before the date, the order expires or is revoked in accordance with section 392 of the 1985 Act, the house is—

- (a) a HMO which is required to be licensed under Part 2 or 3 of the 2004 Act but is not so licensed and the local housing authority consider either—
 - (i) that there is no reasonable prospect of it being so licensed in the near future, or
 - (ii) that the health and safety condition described in section 104 of the 2004 Act is satisfied; or

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- (b) is a house other than one which is required to be licensed under Part 2 of the 2004 Act but in relation to which the local housing authority considers that that condition is satisfied.
- (5) The local housing authority is not required to make an interim management order under section 102 of the 2004 Act before making a final management order under section 113 of that Act in respect of a house to which sub-paragraph (4) applies.
- (6) Section 113 of the 2004 Act has effect for the purpose of the making of a final management order in respect of a house to which sub-paragraph (4) applies as if—
 - (a) in subsection (1) the words “who have made an interim management order in respect of a house under section 102 (“the IMO”)” were omitted; and
 - (b) in subsections (2) and (3)—
 - (i) references to the IMO were construed as references to the control order to which this paragraph applies; and
 - (ii) references to the expiry date of the IMO were construed as references to the date mentioned in sub-paragraph (4).
- (7) Section 114 of the 2004 Act has effect for the purpose of the making of a final management order in respect of a house to which sub-paragraph (4) applies as if—
 - (a) references to a “new final management order” were references to a final management order made under section 113 of that Act as modified by sub-paragraph (6); and
 - (b) references to the “existing order” in subsections (5) to (7) were references to the control orders to which this paragraph applies.
- (8) A control order to which sub-paragraph 4 applies remains in force until—
 - (a) an interim management order under section 102 of the 2004 Act is made;
 - (b) a final management order under section 113 of the 2004 Act is made; or
 - (c) the local housing authority decide that neither type of order described in paragraphs (a) or (b) of this sub-paragraph should be made.