

Changes to legislation: There are currently no known outstanding effects for the Rent (Scotland) Act 1984, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 3.

STATUTORY TENANTS BY SUCCESSION

- 1 The provisions of paragraph 2 or, as the case may be, paragraph 3 of this Schedule shall have effect for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as “the original tenant”) who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.
- 2 The original tenant’s spouse [^{F1}or civil partner] where the dwelling-house was [^{F2}that spouse’s][^{F1}or civil partner’s] only or principal home at the time of the tenant’s death shall be the statutory tenant so long as the said spouse [^{F1}or civil partner] retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

Textual Amendments

- F1** Words in Sch. 1 para. 2 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(c\), Sch. 28 para. 48\(a\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F2** Words substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 72\(2\), Sch. 9 para. 5](#)

- 3 Where paragraph 2 above does not apply, but a person who was a member of the original tenant’s family was residing with him at the time of and for the period of six months immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the [^{F3}First-tier Tribunal], shall be the statutory tenant so long as he retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

Textual Amendments

- F3** Words in Sch. 1 para. 3 substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 28\(a\)](#); S.S.I. 2017/330, art. 3, sch.

- 4 A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2 or paragraph 3 above is in this Schedule referred to as “the first successor”.
- 5 If, immediately before his death, the first successor was still a statutory tenant, the provisions of paragraph 6 or, as the case may be, paragraph 7 below shall have effect for the purpose of determining who is the statutory tenant after the death of the first successor.

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- 6 The first successor's spouse [^{F4}or civil partner] , where the dwelling-house was his only or principal home at the time of the tenant's death, shall be the statutory tenant so long as the said spouse [^{F4}or civil partner] retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

Textual Amendments

- F4** Words in Sch. 1 para. 6 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 48\(b\)](#); S.S.I. 2005/604, arts. 2(c), 4

- 7 Where paragraph 6 above does not apply but a person who was a member of the first successor's family was residing with him at the time of and for the period of six months immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the [^{F5}First-tier Tribunal], shall be the statutory tenant so long as he retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

Textual Amendments

- F5** Words in Sch. 1 para. 7 substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), [sch. 1 para. 28\(b\)](#); S.S.I. 2017/330, art. 3, sch.

- 8 (1)) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, "the original tenant" and "the first successor" in this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—
- (a) if the successor was the first successor, and immediately before his death he was still the tenant (whether protected or statutory), paragraphs 6 and 7 above shall apply on his death.
 - (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.
- (2) Sub-paragraph (1) above applies even if—
- (a) a successor enters into more than one other tenancy of the dwelling-house, and
 - (b) both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.
- (3) This paragraph shall apply—
- (a) as respects any succession which takes place on or after 27th August 1972; and
 - (b) as respects a succession which took place before that date if the tenancy granted after the succession, or the first of those tenancies, was granted on or after that date.
- (4) In this paragraph—
- "succession" means the occasion on which a person becomes the statutory tenant of a dwelling-house by virtue of this Schedule and "successor" shall be construed accordingly.

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“tenancy” means “regulated tenancy” and “tenancies” shall be construed accordingly.

- 9 Paragraphs 5 to 7 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 20 of the ^{M1}Rent Act 1965.

Marginal Citations

M1 1965 c. 75.

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