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## SCHEDULES

### SCHEDULE 2

Section 84.

#### GROUND FOR POSSESSION OF DWELLING-HOUSES LET UNDER SECURE TENANCIES

##### PART I

#### GROUND ON WHICH COURT MAY ORDER POSSESSION IF IT CONSIDERS IT REASONABLE

##### *Ground 1*

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.

##### *Ground 2*

The tenant or a person residing in the dwelling-house has been guilty of conduct which is a nuisance or annoyance to neighbours, or has been convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes.

VALID FROM 04/02/1997

##### *[<sup>F1</sup> Ground 2A]*

##### **Textual Amendments**

**F1** Sch. 2 Ground 2A and inserted (4.2.1997) by 1996 c. 52, s. 145; S.I. 1997/66, art. 2 (subject to savings in Sch.)

*[<sup>F2</sup>The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—*

- (a) one or both of the partners is a tenant of the dwelling-house,*
- (b) one partner has left because of violence or threats of violence by the other towards—*
  - (i) that partner, or*
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and*
- (c) the court is satisfied that the partner who has left is unlikely to return.]*

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#### Textual Amendments

- F2** Sch. 2 Ground 2A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 145; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### Ground 3

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

#### Ground 4

The condition of furniture provided by the landlord for use under the tenancy, or for use in the common parts, has deteriorated owing to ill-treatment by the tenant or a person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

#### Ground 5

VALID FROM 04/02/1997

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly

[<sup>F3</sup>by—

- (a) the tenant, or
- (b) a person acting at the tenant's instigation]

#### Textual Amendments

- F3** Sch. 2 Ground 5(a)(b) and word “by” immediately preceding it substituted (4.2.1997) for words by 1996 c. 52, s. 146; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### Textual Amendments

- F3** Sch. 2 Ground 5(a)(b) and word “by” immediately preceding it substituted (4.2.1997) for words by 1996 c. 52, s. 146; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### Ground 6

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of section 92 (assignments by way of exchange) and a premium was paid either in connection with that

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assignment or the assignment which the tenant or predecessor himself made by virtue of that section.

In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent

#### *Ground 7*

The dwelling-house forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, and—

- (a) the dwelling-house was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord, or of—
- a local authority,
  - a new town corporation,
  - [<sup>F4</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales, or
  - the governors of an aided school,

and

- (b) the tenant or a person residing in the dwelling-house has been guilty of conduct such that, having regard to the purpose for which the building is used, it would not be right for him to continue in occupation of the dwelling-house.

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#### **Textual Amendments**

**F4** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 83\(6\)\(b\)](#)

#### *Ground 8*

The dwelling-house was made available for occupation by the tenant (or a predecessor in title of his) while works were carried out on the dwelling-house which he previously occupied as his only or principal home and—

- (a) the tenant (or predecessor) was a secure tenant of the other dwelling-house at the time when he ceased to occupy it as his home,
- (b) the tenant (or predecessor) accepted the tenancy of the dwelling-house of which possession is sought on the understanding that he would give up occupation when, on completion of the works, the other dwelling-house was again available for occupation by him under a secure tenancy, and
- (c) the works have been completed and the other dwelling-house is so available.

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## PART II

### GROUNDS ON WHICH THE COURT MAY ORDER POSSESSION IF SUITABLE ALTERNATIVE ACCOMMODATION IS AVAILABLE

#### Ground 9

The dwelling-house is overcrowded, within the meaning of Part X, in such circumstances as to render the occupier guilty of an offence.

#### Ground 10

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or
- (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house,

and cannot reasonably do so without obtaining possession of the dwelling-house.

#### [<sup>F5</sup> Ground 10A]

##### Textual Amendments

**F5** Sch. 2 Pt. II Ground 10A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. **9(1)**

##### Modifications etc. (not altering text)

**C1** Sch. 2 Pt. II Ground 10A modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), art. 3, **Sch. para. 2(1)** (with art. 6); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the [<sup>F6</sup>Corporation] in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

*or*

Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.

##### Textual Amendments

**F6** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**

#### Ground 11

The landlord is a charity and the tenant's continued occupation of the dwelling-house would conflict with the objects of the charity.

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### PART III

#### GROUND ON WHICH THE COURT MAY ORDER POSSESSION IF IT CONSIDERS IT REASONABLE AND SUITABLE ALTERNATIVE ACCOMMODATION IS AVAILABLE

##### Ground 12

The dwelling-house forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and—

- (a) the dwelling-house was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord or of—
- a local authority,
  - a new town corporation,
  - [<sup>F7</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales, or
  - the governors of an aided school,

and that employment has ceased, and

- (b) the landlord reasonably requires the dwelling-house for occupation as a residence for some person either engaged in the employment of the landlord, or of such a body, or with whom a contract for such employment has been entered into conditional on housing being provided.

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#### Textual Amendments

**F7** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **83(6)(b)**

##### Ground 13

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling-house and—

- (a) there is no longer such a person residing in the dwelling-house, and
- (b) the landlord requires it for occupation (whether alone or with members of his family) by such a person.

##### Ground 14

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (whether alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing, and—

- (a) either there is no longer such a person residing in the dwelling-house or the tenant has received from a local housing authority an offer of accommodation in premises which are to be let as a separate dwelling under a secure tenancy, and
- (b) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by such a person.

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### Ground 15

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and—

- (a) a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs,
- (b) there is no longer a person with those special needs residing in the dwelling-house, and
- (c) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by a person who has those special needs.

### Ground 16

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and—

- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy), the tenant being qualified to succeed by virtue of section 87(b) (members of family other than spouse), and
- (b) notice of the proceedings for possession was served under section 83 more than six months but less than twelve months after the date of the previous tenant's death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include—

- (a) the age of the tenant,
- (b) the period during which the tenant has occupied the dwelling-house as his only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.

## PART IV

### SUITABILITY OF ACCOMMODATION

1 For the purposes of section 84(2)(b) and (c) (case in which court is not to make an order for possession unless satisfied that suitable accommodation will be available) accommodation is suitable if it consists of premises—

- (a) which are to be let as a separate dwelling under a secure tenancy, or
- (b) which are to be let as a separate dwelling under a protected tenancy, not being a tenancy under which the landlord might recover possession under one of the Cases in Part II of Schedule 15 to the <sup>M1</sup>Rent Act 1977 (cases where court must order possession), [<sup>F8</sup>or
- (c) which are to be let as a separate dwelling under an assured tenancy which is neither an assured shorthold tenancy, within the meaning of Part I of the Housing Act 1988, nor a tenancy under which the landlord might recover possession under any of Grounds 1 to 5 in Schedule 2 to that Act]

and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and his family.

#### Textual Amendments

**F8** Word “or” and Sch. 2 Pt. IV para. 1(c) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. I para. 65](#)

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### Marginal Citations

M1 1977 c. 42.

- 2 In determining whether the accommodation is reasonably suitable to the needs of the tenant and his family, regard shall be had to—
- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
  - (b) the distance of the accommodation available from the place of work or education of the tenant and of any members of his family;
  - (c) its distance from the home of any member of the tenant's family if proximity to it is essential to that member's or the tenant's well-being;
  - (d) the needs (as regards extent of accommodation) and means of the tenant and his family;
  - (e) the terms on which the accommodation is available and the terms of the secure tenancy;
  - (f) if furniture was provided by the landlord for use under the secure tenancy, whether furniture is to be provided for use in the other accommodation, and if so the nature of the furniture to be provided.
- 3 Where possession of a dwelling-house is sought on ground 9 (overcrowding such as to render occupier guilty of offence), other accommodation may be reasonably suitable to the needs of the tenant and his family notwithstanding that the permitted number of persons for that accommodation, as defined in section 326(3) (overcrowding: the space standard), is less than the number of persons living in the dwelling-house of which possession is sought.
- 4
- (1) A certificate of the appropriate local housing authority that they will provide suitable accommodation for the tenant by a date specified in the certificate is conclusive evidence that suitable accommodation will be available for him by that date.
  - (2) The appropriate local housing authority is the authority for the district in which the dwelling-house of which possession is sought is situated.
  - (3) This paragraph does not apply where the landlord is a local housing authority.

## [F9]PART V

### APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND 10A

#### Textual Amendments

F9 Sch. 2 Pt. 5 inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 9(2)

- 1
- (1) The Secretary of State may, on the application of the landlord, approve for the purposes of ground 10A in Part II of this Schedule a scheme for the disposal and re-development of an area of land consisting of or including the whole or part of one or more dwelling-houses.
  - (2) For this purpose—
    - (a) “disposal” means a disposal of any interest in the land (including the grant of an option), and

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- (b) “redevelopment” means the demolition or reconstruction of buildings or the carrying out of other works to buildings or land;  
and it is immaterial whether the disposal is to precede or follow the redevelopment.
- (3) The Secretary of State may on the application of the landlord approve a variation of a scheme previously approved by him and may, in particular, approve a variation adding land to the area subject to the scheme.
- 2 (1) Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation it shall serve a notice in writing on any secure tenant of a dwelling-house affected by the proposal stating—
- (a) the main features of the proposed scheme or, as the case may be, the scheme as proposed to be varied,
  - (b) that the landlord proposes to apply to the Secretary of State for approval of the scheme or variation, and
  - (c) the effect of such approval, by virtue of section 84 and ground 10A in Part II of this Schedule, in relation to proceedings for possession of the dwelling-house,
- and informing the tenant that he may, within such period as the landlord may allow (which shall be at least 28 days from service of the notice), make representations to the landlord about the proposal.
- (2) The landlord shall not apply to the Secretary of State until it has considered any representations made to it within that period.
- (3) In the case of a landlord to which section 105 applies (consultation on matters of housing management) the provisions of this paragraph apply in place of the provisions of that section in relation to the approval or variation of a redevelopment scheme.
- 3 (1) In considering whether to give his approval to a scheme or variation the Secretary of State shall take into account, in particular—
- (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood,
  - (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme, and
  - (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord;
- and he shall take into account any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.
- (2) The landlord shall give to the Secretary of State such information as to the representations made to it, and other relevant matters, as the Secretary of State may require.
- 4 The Secretary of State shall not approve a scheme or variation so as to include in the area subject to the scheme—
- (a) part only of one or more dwelling-houses, or
  - (b) one or more dwelling-houses not themselves affected by the works involved in redevelopment but which are proposed to be disposed of along with other land which is so affected,
- unless he is satisfied that the inclusion is justified in the circumstances.



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- 5 (1) Approval may be given subject to conditions and may be expressed to expire after a specified period.
- (2) The Secretary of State, on the application of the landlord or otherwise, may vary an approval so as to—
- (a) add, remove or vary conditions to which the approval is subject; or
  - (b) extend or restrict the period after which the approval is to expire.
- (3) Where approval is given subject to conditions, the landlord may serve a notice under section 83 (notice of proceedings for possession) specifying ground 10A notwithstanding that the conditions are not yet fulfilled but the court shall not make an order for possession on that ground unless satisfied that they are or will be fulfilled.
- 6 Where the landlord is a [<sup>F10</sup>registered social landlord], the [<sup>F11</sup>Corporation], and not the Secretary of State, has the functions conferred by this Part of this Schedule.

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**Textual Amendments**

**F10** Words in [Sch. 2 Pt. V para. 6](#) substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 14\(31\)](#)

**F11** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. II para. 106](#)

- 7 In this Part of this Schedule references to the landlord of a dwelling-house include any authority or body within section 80 (the landlord condition for secure tenancies) having an interest of any description in the dwelling-house.]

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