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## SCHEDULES

### SCHEDULE 3

#### CASES WHERE CONSENT OF TRIBUNAL TO OPERATION OF NOTICE TO QUIT IS NOT REQUIRED

##### PART II

#### SUPPLEMENTARY PROVISIONS APPLICABLE TO CASES A, B, C, D, E AND G

##### *Provisions applicable to Case A*

- 1 Paragraphs 2 to 7 below have effect for determining whether, for the purposes of paragraph (b) of Case A, suitable alternative accommodation is or will be available for the tenant.
- 2 For the purposes of paragraph (b) of Case A, a certificate of the housing authority for the district in which the living accommodation in question is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.
- 3 Where no such certificate as is mentioned in paragraph 2 above has been issued, accommodation shall be deemed to be suitable for the purposes of paragraph (b) of Case A if it consists of either—
- (a) premises which are to be let as a separate dwelling such that they will then be let on a protected tenancy (within the meaning of the <sup>M1</sup>Rent Act 1977),  
or
  - (b) premises to be let as a separate dwelling on terms which will afford to the tenant security of tenure reasonably equivalent to the security afforded by Part VII of that Act in the case of a protected tenancy, [<sup>F1</sup>or
  - (c) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy which is not an assured shorthold tenancy (construing those terms in accordance with Part I of the Housing Act 1988),  
or
  - (d) premises to be let as a separate dwelling on terms which will afford to the tenant security of tenure reasonably equivalent to the security afforded by Chapter I of Part I of that Act in the case of an assured tenancy which is not an assured shorthold tenancy.]
- and the accommodation fulfils the conditions in paragraph 4 below.
- [<sup>F2</sup>(2) Any reference in sub-paragraph (1) above to an assured tenancy does not include a reference to a tenancy in respect of which possession might be recovered on any of Grounds 1 to 5 in Schedule 2 to the Housing Act 1988.]

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#### Textual Amendments

- F1** Sch. 3 Pt. II para. 3(c)(d) and the word “or” preceding inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140, [Sch. 17 para. 69\(1\)](#)
- F2** Sch. 3 Pt.II para.3(2) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140, [Sch. 17 para. 69\(2\)](#)

#### Marginal Citations

- M1** 1977 c. 42.

- 4 (1) The accommodation must be reasonably suitable to the needs of the tenant’s family as regards proximity to place of work and either—
- (a) similar as regards rental and extent to the accommodation afforded by dwelling-houses provided in the neighbourhood by any housing authority for persons whose needs as regards extent are similar to those of the tenant and his family, or
  - (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character.
- (2) For the purposes of sub-paragraph (1)(a) above, a certificate of a housing authority stating—
- (a) the extent of the accommodation afforded by dwelling-houses provided by the authority to meet the needs of tenants with families of such number as may be specified in the certificate, and
  - (b) the amount of the rent charged by the authority for dwelling-houses affording accommodation of that extent,
- shall be conclusive evidence of the facts so stated.
- (3) If any furniture was provided by the landlord for use under the tenancy in question, furniture must be provided for use in the alternative accommodation which is either—
- (a) similar to that so provided, or
  - (b) reasonably suitable to the needs of the tenant and his family.
- 5 Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of Part X of the <sup>M2</sup>Housing Act 1985.

#### Marginal Citations

- M2** 1985 c. 68.

- 6 Any document purporting—
- (a) to be a certificate of a housing authority named in it issued for the purposes of this Schedule, and
  - (b) to be signed by the proper officer of the authority,
- shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.

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- 7 (1) In paragraphs 2, 4 and 6 above “housing authority”, and “district” in relation to such an authority, mean a local housing authority and their district within the meaning of the Housing Act 1985.
- (2) For the purposes of paragraphs 4 and 5 a dwelling-house may be a house or part of a house.

*Provisions applicable to Case B*

- 8 (1) For the purposes of Case B no account shall be taken of any permission granted as mentioned in paragraph (a) of that Case if the permission—
- <sup>F3</sup>(a) . . . . .
- (b) relates to the working of coal by opencast operations, and
- (c) was granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture or use for forestry.
- (2) In this paragraph “restoration condition” and “aftercare condition” have the meaning given by [<sup>F4</sup>section 336(1) of the Town and Country Planning Act 1990].

**Textual Amendments**

**F3** Sch. 3 Pt. II para. 8(1)(a) repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 35, **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**.

**F4** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 72**

- [<sup>F5</sup>8A (1) For the purposes of Case B—
- (a) “general development order” means an order under section 59 of the Town and Country Planning Act 1990 which is made as a general order, and
- (b) “the enactments relating to town and country planning” means the planning Acts (as defined in section 336(1) of the Town and Country Planning Act 1990) and any enactment amending or replacing any of those Acts.
- (2) In relation to any time before the commencement of Part III of the Town and Country Planning Act 1990, sub-paragraph (1) above shall have effect as if—
- (a) in paragraph (a), for “59” there were substituted “24” and for “1990” there were substituted “1971”, and
- (b) in paragraph (b), for the words from “planning Acts” onwards there were substituted “repealed enactments (as defined in section 1(1) of the Planning (Consequential Provisions) Act 1990)”.]

**Textual Amendments**

**F5** Sch. 3 Pt. II para. 8A inserted by **Agricultural Holdings (Amendment) Act 1990** (c. 15, SIF 2:3), **ss. 1(1)(3), 2**

*Provisions applicable to Case C*

- 9 (1) For the purposes of Case C the landlord of an agricultural holding may apply to the Tribunal for a certificate that the tenant is not fulfilling his responsibilities to farm in

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accordance with the rules of good husbandry; and the Tribunal, if satisfied that the tenant is not fulfilling his said responsibilities, shall grant such a certificate.

- (2) In determining whether to grant a certificate under this paragraph the Tribunal shall disregard any practice adopted by the tenant in pursuance of any provision of the contract of tenancy, or of any other agreement with the landlord, which indicates (in whatever terms) that its object is the furtherance of one or more of the following purposes, namely—
- (a) the conservation of flora or fauna or of geological or physiographical features of special interest;
  - (b) the protection of buildings or other objects of archaeological, architectural or historic interest;
  - (c) the conservation or enhancement of the natural beauty or amenity of the countryside or the promotion of its enjoyment by the public.
- [<sup>F6</sup>(3) In determining whether to grant a certificate under this paragraph, the tribunal shall disregard any practice adopted by the tenant in compliance with any obligation accepted by or imposed on the tenant under [<sup>F7</sup>section 94 or 95 of the Water Resources Act 1991]]

#### Textual Amendments

- F6** Sch. 3 Pt. II para. 9(3) inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 189(4)–(10), 190, 193(1), Sch. 25 para. 75(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F7** Sch. 3 Pt. II para. 9: words substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 43**

#### *Provisions applicable to Case D*

- 10 (1) For the purposes of Case D—
- (a) a notice such as that mentioned in paragraph (a) or (b) of that Case must be in the prescribed form,
  - (b) where such a notice in the prescribed form requires the doing of any work of repair, maintenance or replacement, any further notice requiring the doing of any such work which is served on the tenant less than twelve months after the earlier notice shall be disregarded unless the earlier notice was withdrawn with his agreement in writing,
  - (c) a period of less than six months shall not be treated as a reasonable period within which to do any such work, and
  - (d) any provision such as is mentioned in paragraph 9(2) above shall (if it would not otherwise be so regarded) be regarded as a term or condition of the tenancy which is not inconsistent with the tenant's responsibilities to farm in accordance with the rules of good husbandry.
- (2) Different forms may be prescribed for the purpose of paragraph (b) of Case D in relation to different circumstances.
- [<sup>F8</sup>(3) For the purposes of that Case compliance with any obligation accepted by or imposed on the tenant under [<sup>F9</sup>section 94 or 95 of the Water Resources Act 1991] shall not be capable of constituting a breach by the tenant of the terms or conditions of his tenancy.]

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#### Textual Amendments

- F8** Sch. 3 Pt. II paras.10(3), 11(3) inserted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 para. 75(b), Sch. 26 paras. 57(6), **58**
- F9** Sch. 3 Pt. II para. 10: words substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para.43**

#### *Provisions applicable to Case E*

- 11 (1) Where—
- (a) the landlord is a smallholdings authority, or
  - (b) the landlord is the Minister and the holding is on land held by him for the purposes of smallholdings,
- then, in considering whether the interest of the landlord has been materially prejudiced as mentioned in Case E, regard shall be had to the effect of the breach in question not only on the holding itself but also on the carrying out of the arrangements made by the smallholdings authority or the Minister (as the case may be) for the letting and conduct of smallholdings.
- (2) For the purposes of Case E any provision such as is mentioned in paragraph 9(2) above shall (if it would not otherwise be so regarded) be regarded as a term or condition of the tenancy which is not inconsistent with the tenant's responsibilities to farm in accordance with the rules of good husbandry.
- [<sup>F10</sup>(3) For the purposes of that Case compliance with any obligation accepted by or imposed on the tenant under [<sup>F11</sup>section 94 or 95 of the Water Resources Act 1991] shall not be capable of constituting a breach by the tenant of the terms or conditions of his tenancy.]

#### Textual Amendments

- F10** Sch. 3 Pt. II paras.10(3), 11(3) inserted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 para. 75(b), Sch. 26 paras. 57(6), **58**
- F11** Sch. 3 Pt. II para. 11: words substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 43**

#### *Provisions applicable to Case G*

- 12 For the purposes of Case G—
- (a) “tenant” does not include an executor, administrator, trustee in bankruptcy or other person deriving title from a tenant by operation of law, and
  - (b) the reference to the date of any relevant notice shall be construed as a reference—
    - (i) to the date on which a notice in writing was served on the landlord by or on behalf of an executor or administrator of the tenant's estate informing the landlord of the tenant's death or the date on which the landlord was given notice by virtue of section 40(5) of this Act of any application with respect to the holding under section 39 or 41, or

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- (ii) where both of those events occur, to the date of whichever of them occurs first.

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