

## SCHEDULES

### SCHEDULE 17

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### PART I

##### GENERAL AMENDMENTS

##### *The Housing (Scotland) Act 1988*

- 85 In section 19 of the Housing (Scotland) Act 1988 (notice of proceedings for possession)—
- (a) in subsection (2) for the word “is” there shall be substituted the words “and particulars of it are”;
  - (b) in subsection (3) after the word “one” where it first occurs there shall be inserted the words “in the prescribed form”.
- 86 In section 36 of that Act (damages for unlawful eviction)—
- (a) in subsection (2) for the word “calculated” there shall be substituted the word “likely”;
  - (b) in subsection (7)(b)—
    - (i) after the word “of” where it first occurs there shall be inserted the words “the doing of acts or”;
    - (ii) after the word “for” there shall be inserted the words “doing the acts or”.
- 87 In section 38 of that Act (further offence of harassment)—
- (a) for the words from “In section 22” to “after subsection (2)” there shall be substituted the words—
    - “(1) Subsection (2) of section 22 of the Rent (Scotland) Act 1984 (unlawful eviction and harassment of occupier) shall, as respects acts done after the commencement of this section, have effect with the substitution of the word “likely” for the word “calculated”.
    - (2) After that subsection”;
  - (b) after “(2A)” there shall be inserted the words “Subject to subsection (2B) below”;
  - (c) for the word “calculated” there shall be substituted the word “likely”;
  - (d) the words “subject to subsection (2B) below” and “by reason only of conduct falling within paragraph (b) of that subsection” shall cease to have effect;
  - (e) after the word “for” where it second occurs there shall be inserted the words “doing the acts or”.

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*Status: This is the original version (as it was originally enacted).*

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- 88 In section 36 of that Act (damages for unlawful eviction)—
- (a) in subsection (6), for the words “proceedings are begun to enforce the liability” there shall be substituted the words “the date on which the proceedings to enforce the liability are finally decided”; and
  - (b) after subsection (6) there shall be inserted the following subsections—
    - “(6A) For the purposes of subsection (6)(a) above, proceedings to enforce a liability are finally decided—
      - (a) if no appeal may be made against the decision in these proceedings;
      - (b) if an appeal may be made against the decision with leave and the time limit for applications for leave expires and either no application has been made or leave has been refused;
      - (c) if leave to appeal against the decision is granted or is not required and no appeal is made within the time limit for appeals; or
      - (d) if an appeal is made but is abandoned before it is determined.
    - (6B) If, in proceedings to enforce a liability arising by virtue of subsection (3) above, it appears to the court—
      - (a) that, prior to the event which gave rise to the liability, the conduct of the former residential occupier or any person living with him in the premises concerned was such that it is reasonable to mitigate the damages for which the landlord would otherwise be liable, or
      - (b) that, before the proceedings were begun, the landlord offered to reinstate the former residential occupier in the premises in question and either it was unreasonable of the former residential occupier to refuse that offer or, if he had obtained alternative accommodation before the offer was made, it would have been unreasonable of him to refuse that offer if he had not obtained that accommodation,

the court may reduce the amount of damages which would otherwise be payable to such amount as it thinks appropriate.”
- 89 In section 63 of that Act (consent for subsequent disposals) after subsection (2) there shall be inserted the following subsection—
- “(2A) Before giving any consent for the purposes of subsection (1) above, Scottish Homes—
- (a) shall satisfy itself that the person who is seeking the consent has taken appropriate steps to consult the tenant of the house (or, as the case may be, each house) of which the property proposed to be disposed of consists; and
  - (b) shall have regard to the response of such tenant to that consultation.”
- 90 In Schedule 4 to that Act (tenancies which cannot be assured tenancies) after paragraph 11 there shall be inserted the following paragraph—

*“Accommodation for homeless persons*

- 11A A tenancy granted expressly on a temporary basis in the fulfilment of a duty imposed on a local authority by Part II of the Housing (Scotland) Act 1987.”