

Status: Point in time view as at 10/10/2002.

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SCHEDULES

SCHEDULE 2

Section 7.

GROUND FOR POSSESSION OF DWELLING-HOUSES LET ON ASSURED TENANCIES

PART I

GROUND ON WHICH COURT MUST ORDER POSSESSION

Ground 1

Not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground or the court is of the opinion that it is just and equitable to dispense with the requirement of notice and (in either case)—

- (a) at some time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the dwelling-house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the dwelling-house as his or his spouse's only or principal home and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title under the landlord who gave the notice mentioned above acquired the reversion on the tenancy for money or money's worth.

Ground 2

The dwelling-house is subject to a mortgage granted before the beginning of the tenancy and—

- (a) the mortgagee is entitled to exercise a power of sale conferred on him by the mortgage or by section 101 of the ^{M1}Law of Property Act 1925; and
- (b) the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power; and
- (c) either notice was given as mentioned in Ground 1 above or the court is satisfied that it is just and equitable to dispense with the requirement of notice;

and for the purposes of this ground “mortgage” includes a charge and “mortgagee” shall be construed accordingly.

Marginal Citations

M1 1925 c. 20.

Marginal Citations

M1 1925 c. 20.

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Ground 3

The tenancy is a fixed term tenancy for a term not exceeding eight months and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was occupied under a right to occupy it for a holiday.

Ground 4

The tenancy is a fixed term tenancy for a term not exceeding twelve months and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was let on a tenancy falling within paragraph 8 of Schedule 1 to this Act.

Ground 5

The dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.

Ground 6

The landlord who is seeking possession or, if that landlord is a [^{F1}registered social landlord] or charitable housing trust, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the dwelling-house or to carry out substantial works on the dwelling-house or any part thereof or any building of which it forms part and the following conditions are fulfilled—

- (a) the intended work cannot reasonably be carried out without the tenant giving up possession of the dwelling-house because—
 - (i) the tenant is not willing to agree to such a variation of the terms of the tenancy as would give such access and other facilities as would permit the intended work to be carried out, or
 - (ii) the nature of the intended work is such that no such variation is practicable, or
 - (iii) the tenant is not willing to accept an assured tenancy of such part only of the dwelling-house (in this sub-paragraph referred to as “the reduced part”) as would leave in the possession of his landlord so much of the dwelling-house as would be reasonable to enable the intended work to be carried out and, where appropriate, as would give such access and other facilities over the reduced part as would permit the intended work to be carried out, or
 - (iv) the nature of the intended work is such that such a tenancy is not practicable; and
- (b) either the landlord seeking possession acquired his interest in the dwelling-house before the grant of the tenancy or that interest was in existence at the time of that grant and neither that landlord (or, in the case of joint landlords, any of them) nor any other person

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who, alone or jointly with others, has acquired that interest since that time acquired it for money or money's worth; and

- (c) the assured tenancy on which the dwelling-house is let did not come into being by virtue of any provision of Schedule 1 to the ^{M2}Rent Act 1977, as amended by Part I of Schedule 4 to this Act or, as the case may be, section 4 of the ^{M3}Rent (Agriculture) Act 1976, as amended by Part II of that Schedule.

Textual Amendments

F1 Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(a\)](#)

Modifications etc. (not altering text)

C1 Sch. 2 Ground 6 applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 186, Sch. 10 paras. 5, 21, 22](#)

Marginal Citations

M2 [1977 c. 42.](#)

M3 [1976 c. 80.](#)

For the purposes of this ground, if, immediately before the grant of the tenancy, the tenant to whom it was granted or, if it was granted to joint tenants, any of them was the tenant or one of the joint tenants [^{F2}of the dwelling-house concerned] under an earlier assured tenancy [^{F3}or, as the case may be, under a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applied], any reference in paragraph (b) above to the grant of the tenancy is a reference to the grant of that earlier assured tenancy [^{F2}or, as the case may be, to the grant of the tenancy to which the said Schedule 10 applied].

Textual Amendments

F2 Words in Sch. 2 Pt. I Ground 6 inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194, Sch. 11 para. 108](#)

F3 Words in Sch. 2 Pt. I Ground 6 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194, Sch. 11 para. 108](#)

For the purposes of this ground [^{F4}“registered social landlord” has the same meaning as in the Housing Act 1985 (see section 5(4) and (5) of that Act)] and “charitable housing trust” means a housing trust, within the meaning of [^{F5}the Housing Associations Act 1985], which is a charity, within the meaning of [^{F6}the Charities Act 1993].

Textual Amendments

F4 Sch. 2 Pt. I Ground 6: definition of “registered social landlord” substituted (1.10.1996) for the definition of “registered housing association” by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(b\)](#)

F5 Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(c\)](#)

F6 Words in [Sch. 2 Pt. I](#) Ground 6 substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\), Sch. 6 para. 30](#)

F7

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Textual Amendments

- F7** Words in Sch. 2 Pt. I Ground 6 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in **Sch.**)

Textual Amendments

- F1** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(13)(a)**
- F2** Words in Sch. 2 Pt. I Ground 6 inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 108**
- F3** Words in Sch. 2 Pt. I Ground 6 substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194, **Sch. 11 para. 108**
- F4** Sch. 2 Pt. I Ground 6: definition of “registered social landlord” substituted (1.10.1996) for the definition of “registered housing association” by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(13)(b)**
- F5** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(13)(c)**
- F6** Words in **Sch. 2 Pt. I** Ground 6 substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 30**
- F7** Words in Sch. 2 Pt. I Ground 6 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in **Sch.**)

Modifications etc. (not altering text)

- C1** Sch. 2 Ground 6 applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, **Sch. 10 paras. 5, 21, 22**

Marginal Citations

- M2** 1977 c. 42.
M3 1976 c. 80.

Ground 7

The tenancy is a periodic tenancy (including a statutory periodic tenancy) which has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than twelve months after the death of the former tenant or, if the court so directs, after the date on which, in the opinion of the court, the landlord or, in the case of joint landlords, any one of them became aware of the former tenant’s death.

For the purposes of this ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new periodic tenancy, unless the landlord agrees in writing to a change (as compared with the tenancy before the death) in the amount of the rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

- (a) if rent is payable weekly or fortnightly, at least [^{F8}eight weeks’] rent is unpaid;
- (b) if rent is payable monthly, at least [^{F9}two months’] rent is unpaid;
- (c) if rent is payable quarterly, at least one quarter’s rent is more than three months in arrears; and
- (d) if rent is payable yearly, at least three months’ rent is more than three months in arrears;

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and for the purpose of this ground “rent” means rent lawfully due from the tenant.

Textual Amendments

- F8** Words in Sch. 2 Pt. I Ground 8 para. (a) substituted (28.2.1997) by [1996 c. 52, s. 101\(a\)](#); S.I. 1997/225, [art. 2](#)
- F9** Words in Sch. 2 Pt. I Ground 8 para. (b) substituted (1.1.1997) by [1996 c. 52, s. 101\(b\)](#); S.I. 1997/225, [art. 2](#)

Textual Amendments

- F8** Words in Sch. 2 Pt. I Ground 8 para. (a) substituted (28.2.1997) by [1996 c. 52, s. 101\(a\)](#); S.I. 1997/225, [art. 2](#)
- F9** Words in Sch. 2 Pt. I Ground 8 para. (b) substituted (1.1.1997) by [1996 c. 52, s. 101\(b\)](#); S.I. 1997/225, [art. 2](#)

PART II

GROUND ON WHICH COURT MAY ORDER POSSESSION

Modifications etc. (not altering text)

- C2** [Pt. II \(Grounds 9–15\)](#) applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, Sch. 10 paras. 5, 21, 22

Ground 9

Suitable alternative accommodation is available for the tenant or will be available for him when the order for possession takes effect.

Ground 10

Some rent lawfully due from the tenant—

- (a) is unpaid on the date on which the proceedings for possession are begun; and
- (b) except where subsection (1)(b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

Ground 11

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.

Ground 12

Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed.

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Ground 13

The condition of the dwelling-house or any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any other 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.

For the purposes of this ground, “common parts” means any part of a building comprising the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses in which the landlord has an estate or interest.

Ground 14

[^{F10}The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
 - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
 - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.]

Textual Amendments

F10 Sch. 2 Pt. II Ground 14 substituted (28.2.1997) by 1996 c. 52, s. 148; S.I. 1997/225, art. 2 (with Sch.)

[^{F11}Ground 14A]

Textual Amendments

F11 Sch. 2 Pt. II Ground 14A and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 149; S.I. 1997/225, art. 2 (with Sch.)

[^{F12}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) the landlord who is seeking possession is a registered social landlord or a charitable housing trust,
- (c) one partner has left the dwelling-house 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
- (d) the court is satisfied that the partner who has left is unlikely to return.

For the purposes of this ground “registered social landlord” and “member of the family” have the same meaning as in Part I of the ^{M4}Housing Act 1996 and “charitable housing

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trust” means a housing trust, within the meaning of the ^{M5}Housing Associations Act 1985, which is a charity within the meaning of the Charities Act 1993.

Textual Amendments

F12 Sch. 2 Pt. II Ground 14A and cross-heading inserted (28.2.1997) by [1996 c. 52, s. 149](#); [S.I. 1997/225, art. 2](#) (with [Sch.](#))

Marginal Citations

M4 [1985 c. 69](#).

M5 [1993 c. 10](#).

Ground 15

The condition of any furniture provided for use under the tenancy has, in the opinion of the court, deteriorated owing to ill-treatment by the tenant or any other person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or by 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 16

The dwelling-house was let to the tenant in consequence of his employment by the landlord seeking possession or a previous landlord under the tenancy and the tenant has ceased to be in that employment.

Modifications etc. (not altering text)

C3 [Pt. II Ground 16](#) applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), [s. 186](#), [Sch. 10 paras. 5, 21, 22](#)

[^{F13}For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, [^{F14}or by a Local Health Board,] shall be regarded as employment by the Secretary of State.]

Textual Amendments

F13 Words added by [National Health and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 60\(2\)](#), [Sch. 8 para. 10](#)

F14 [Sch. 2 Pt. II Ground 16](#): words inserted (10.10.2002 for W. and otherwise prosp.) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), [ss. 6\(2\), 42\(3\)](#), [Sch. 5 para. 28](#); [S.I. 2002/2532, art. 2](#), [Sch.](#)

Textual Amendments

F13 Words added by [National Health and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 60\(2\)](#), [Sch. 8 para. 10](#)

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F14 Sch. 2 Pt. II Ground 16: words inserted (10.10.2002 for W. and otherwise prosp.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 6(2), 42(3), **Sch. 5 para. 28**; S.I. 2002/2532, **art. 2**, Sch.

Modifications etc. (not altering text)

C3 Pt. II Ground 16 applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 5, 21, **22**

[^{F15}Ground 17]

Textual Amendments

F15 Sch. 2 Pt. II Ground 17 and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 102; S.I. 1997/225, **art. 2** (with Sch.)

[^{F16}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 by—

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

Textual Amendments

F16 Sch. 2 Pt. II Ground 17 and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 102; S.I. 1997/225, **art. 2** (with Sch.)

PART III

SUITABLE ALTERNATIVE ACCOMMODATION

Modifications etc. (not altering text)

C4 Pt. III (paras. 1–6) applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 13(5), 21, **22**

- 1 For the purposes of Ground 9 above, a certificate of the local housing authority for the district in which the dwelling-house 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.
- 2 Where no such certificate as is mentioned in paragraph 1 above is produced to the court, accommodation shall be deemed to be suitable for the purposes of Ground 9 above if it consists of either—
 - (a) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy, other than—
 - (i) a tenancy in respect of which notice is given not later than the beginning of the tenancy that possession might be recovered on any of Grounds 1 to 5 above, or

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- (ii) an assured shorthold tenancy, within the meaning of Chapter II of Part I of this Act, or
- (b) premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by Chapter I of Part I of this Act in the case of an assured tenancy of a kind mentioned in sub-paragraph (a) above,
- and, in the opinion of the court, the accommodation fulfils the relevant conditions as defined in paragraph 3 below.
- 3 (1) For the purposes of paragraph 2 above, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his 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 local housing authority for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and of 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; and
- that if any furniture was provided for use under the assured tenancy in question, furniture is provided for use in the accommodation which is either similar to that so provided or is reasonably suitable to the needs of the tenant and his family.
- (2) For the purposes of sub-paragraph (1)(a) above, a certificate of a local 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.
- 4 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 ^{M6} the Housing Act 1985.

Marginal Citations

M6 1985 c.68.

- 5 Any document purporting to be a certificate of a local housing authority named therein issued for the purposes of this Part of this Schedule and to be signed by the proper officer of that authority shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.
- 6 In this Part of this Schedule “local housing authority” and “district”, in relation to such an authority, have the same meaning as in the Housing Act 1985.

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PART IV

NOTICES RELATING TO RECOVERY OF POSSESSION

- 7 Any reference in Grounds 1 to 5 in Part I of this Schedule or in the following provisions of this Part to the landlord giving a notice in writing to the tenant is, in the case of joint landlords, a reference to at least one of the joint landlords giving such a notice.
- 8 (1) If, not later than the beginning of a tenancy (in this paragraph referred to as “the earlier tenancy”), the landlord gives such a notice in writing to the tenant as is mentioned in any of Grounds 1 to 5 in Part I of this Schedule, then, for the purposes of the ground in question and any further application of this paragraph, that notice shall also have effect as if it had been given immediately before the beginning of any later tenancy falling within sub-paragraph (2) below.
- (2) Subject to sub-paragraph (3) below, sub-paragraph (1) above applies to a later tenancy—
- (a) which takes effect immediately on the coming to an end of the earlier tenancy; and
 - (b) which is granted (or deemed to be granted) to the person who was the tenant under the earlier tenancy immediately before it came to an end; and
 - (c) which is of substantially the same dwelling-house as the earlier tenancy.
- (3) Sub-paragraph (1) above does not apply in relation to a later tenancy if, not later than the beginning of the tenancy, the landlord gave notice in writing to the tenant that the tenancy is not one in respect of which possession can be recovered on the ground in question.
- 9 Where paragraph 8(1) above has effect in relation to a notice given as mentioned in Ground 1 in Part I of this Schedule, the reference in paragraph (b) of that ground to the reversion on the tenancy is a reference to the reversion on the earlier tenancy and on any later tenancy falling within paragraph 8(2) above.
- 10 Where paragraph 8(1) above has effect in relation to a notice given as mentioned in Ground 3 or Ground 4 in Part I of this Schedule, any second or subsequent tenancy in relation to which the notice has effect shall be treated for the purpose of that ground as beginning at the beginning of the tenancy in respect of which the notice was actually given.
- 11 Any reference in Grounds 1 to 5 in Part I of this Schedule to a notice being given not later than the beginning of the tenancy is a reference to its being given not later than the day on which the tenancy is entered into and, accordingly, section 45(2) of this Act shall not apply to any such reference.

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