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SCHEDULES

SCHEDULE 9

AMENDMENTS OF PARTS VI, IX, XI, XVII AND XVIII OF THE HOUSING ACT 1985

PART I

AMENDMENTS OF PART VI

- 1 (1) In section 189 (repair notice in respect of unfit house), in subsection (1), after the words “dwelling-house”, in the first two places where they occur, there shall be inserted “ or house in multiple occupation ” and for the words from “unless they are satisfied” onwards there shall be substituted “ if they are satisfied, in accordance with section 604A, that serving a notice under this subsection is the most satisfactory course of action ”.
- (2) In subsection (1A) of that section—
 - (a) for the words “a dwelling-house which is a flat” there shall be substituted “ either a dwelling-house which is a flat or a flat in multiple occupation ”;
 - (b) for the words from “by reason” to “outside the flat” there shall be substituted “ by virtue of section 604(2) ”; and
 - (c) for the words from “that part of the building” onwards there shall be substituted “ the part of the building in question if they are satisfied, in accordance with section 604A, that serving a notice under this subsection is the most satisfactory course of action ”.
- (3) After subsection (1A) there shall be inserted the following subsection—

“(1B) In the case of a house in multiple occupation, a repair notice may be served on the person managing the house instead of on the person having control; and where a notice is so served, then, subject to section 191, the person managing the house shall be regarded as the person having control of it for the purposes of the provisions of this Part following that section.”
- (4) In subsection (2) of that section, in paragraph (a) after the words “works specified in the notice” there shall be inserted “ (which may be works of repair or improvement or both) ” and for the words “seventh day after the notice becomes operative” there shall be substituted “ twenty-eighth day after the notice is served ”, and in paragraph (b) after the words “dwelling-house” there shall be inserted “ or, as the case may be, house in multiple occupation ”.
- (5) In subsection (3) of that section—
 - (a) after the words “serving the notice” there shall be inserted “ (a) ”;
 - (b) after the words “building concerned” there shall be inserted “or
 - (b) on the person having control of or, as the case may be, on the person managing the house in multiple occupation which is concerned”; and

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(c) in the words following paragraph (b), as set out above, for the words “or part of the building” there shall be substituted “ part of the building or house ”.

(6) After subsection (5) there shall be added the following subsection—

“(6) This section has effect subject to the provisions of section 190A.”

2 (1) In section 190 (repair notice in respect of house in state of disrepair but not unfit)—

(a) at the beginning of each of subsections (1) and (1A) there shall be inserted the words “ Subject to subsection (1B) ”;

(b) in subsection (1), after the words “dwelling-house”, in each place where they occur, there shall be inserted “ or house in multiple occupation ” and at the end of paragraph (b) of that subsection there shall be added “ or, in the case of a house in multiple occupation, the persons occupying it (whether as tenants or licensees) ”; and

(c) in subsection (1A) after the words “a flat” there shall be inserted “ including a flat in multiple occupation ” and at the end of paragraph (b) of that subsection there shall be added “ or, in the case of a flat in multiple occupation, the persons occupying it (whether as tenants or licensees) ”.

(2) After subsections (1A) there shall be inserted the following subsections—

“(1B) The authority may not serve a notice under subsection (1) or subsection (1A) unless—

(a) there is an occupying tenant of the dwelling-house or flat concerned;
or

(b) the dwelling-house or building concerned falls within a renewal area within the meaning of Part VII of the Local Government and Housing Act 1989.

(1C) In the case of a house in multiple occupation, a notice under subsection (1) or subsection (1A) may be served on the person managing the house instead of on the person having control of it; and where a notice is so served, then, subject to section 191, the person managing the house shall be regarded as the person having control of it for the purposes of the provisions of this Part following that section.”

(3) In subsection (2)(a) of that section for the words “seventh day after the notice becomes operative” there shall be substituted “ twenty-eighth day after the notice is served ”.

(4) In subsection (3) of that section—

(a) after the words “serving the notice” there shall be inserted “ (a) ”;

(b) after the words “building concerned” there shall be inserted “or

(b) on the person having control of or, as the case may be, on the person managing the house in multiple occupation which is concerned”; and

(c) in the words following paragraph (b), as set out above, for the words “or part of the building” there shall be substituted “ part of the building or house ”.

3

After that section there shall be inserted the following section—

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“190A Effect on section 189 of proposal to include premises in group repair scheme.

- (1) A local housing authority shall not be under a duty to serve a repair notice under subsection (1) or, as the case may be, subsection (1A) of section 189 if, at the same time as they satisfy themselves as mentioned in the subsection in question, they determine—
 - (a) that the premises concerned form part of a building which would be a qualifying building in relation to a group repair scheme; and
 - (b) that, within the period of twelve months beginning at that time, they expect to prepare a group repair scheme in respect of the qualifying building (in this section referred to as a “relevant scheme”);but where, having so determined, the authority do serve such a notice, they may do so with respect only to those works which, in their opinion, will not be carried out to the premises concerned in pursuance of the relevant scheme.
- (2) Subject to subsection (3), subsection (1) shall apply in relation to the premises concerned from the time referred to in subsection (1) until the date on which the works specified in a relevant scheme are completed to the authority’s satisfaction (as certified under section 130(1) of the Local Government and Housing Act 1989).
- (3) Subsection (1) shall cease to have effect in relation to the premises concerned on the day when the first of the following events occurs, that is to say,—
 - (a) the local housing authority determine not to submit a relevant scheme to the Secretary of State for approval; or
 - (b) the expiry of the period referred to in subsection (1)(b) without either the approval of a relevant scheme within that period or the submission of a relevant scheme to the Secretary of State within that period; or
 - (c) the Secretary of State notifies the authority that he does not approve a relevant scheme; or
 - (d) the authority ascertain that a relevant scheme, as submitted or approved, will not, for whatever reason, involve the carrying out of any works to the premises concerned.
- (4) In any case where, in accordance with subsection (1), the authority serve a repair notice under subsection (1) or, as the case may be, subsection (1A) of section 189 with respect only to certain of the works which would otherwise be specified in the notice, subsection (2)(b) of that section shall have effect with respect to the notice as if after the word “notice” there were inserted the words “ when taken together with works proposed to be carried out under a group repair scheme ”.
- (5) In this section and section 189 “group repair scheme” and “qualifying building” have the same meaning as in Part VIII of the Local Government and Housing Act 1989.”

- 4 (1) In section 191 (appeals against repair notices), in subsection (1A) after the words “dwelling-house” there shall be inserted “ house in multiple occupation ” and after that subsection there shall be inserted the following subsection—

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“(1B) Without prejudice to the generality of subsection (1), it shall be a ground of appeal, in the case of a repair notice under section 189, that making a closing order under section 264 or a demolition order under section 265 is the most satisfactory course of action; and, where the grounds on which an appeal is brought are or include that specified in this subsection, the court, on the hearing of the appeal, shall have regard to any guidance given to the local housing authority under section 604A.”

(2) In subsection (3) of that section the words “(repair notice in respect of unfit dwelling-house)” shall be omitted and for the words from “the judge shall” onwards there shall be substituted— “ and the reason or one of the reasons for allowing the appeal is that making a closing order under section 264 or a demolition order under section 265 is the most satisfactory course of action, the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgement a finding to that effect ”.

(3) In subsection (3B) of that section after the words “dwelling-house”, in both places where they occur, there shall be inserted “ or house in multiple occupation ”.

5 After that section there shall be inserted the following section—

“191A Execution of works by local housing authority by agreement

(1) The local housing authority may by agreement with the person having control of any premises execute at his expense any works which he is required to execute in respect of the premises in pursuance of a repair notice served under section 189 or section 190.

(2) For that purpose the authority shall have all such rights as that person would have against any occupying tenant of, and any other person having an interest in, the premises (or any part of the premises).”

6 Section 192 (power to purchase house found on appeal to be unfit and beyond repair at reasonable expense) shall cease to have effect.

7 In section 193 (power of local housing authority to execute works), in subsection (4) after the words “dwelling-house” there shall be inserted “ house in multiple occupation ” and for the words “in default of the person on whom the repair notice was served” there shall be substituted “ in a case where the repair notice has not been complied with ”.

8 (1) In section 197 (powers of entry), in subsection (1)—

(a) for the words “24 hours” there shall be substituted “ seven days ’ ”;

(b) at the end of paragraph (a) there shall be inserted “ or ”; and

(c) paragraph (c) and the word “or” immediately preceding it shall be omitted.

(2) At the end of subsection (2) of that section there shall be added the words “ and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ”.

9 In section 198 (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “ intentionally ”.

10 Section 205 (application of provisions to temporary or movable structures) shall cease to have effect.

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- 11 Section 206 (repair at reasonable expense) shall cease to have effect.
- 12 (1) In section 207 (minor definitions), in subsection (1) in the definition beginning “dwelling-house” after the word “flat”, in the first place where it occurs, there shall be inserted “ other than in the expression “flat in multiple occupation” ” and after that definition there shall be inserted—
- ““house in multiple occupation” and “flat in multiple occupation” have the same meaning as in Part XI”.
- (2) In that subsection for the definition beginning “occupying tenant” there shall be substituted—
- ““occupying tenant”, in relation to a dwelling-house, means a person (other than an owner-occupier) who—
- (a) occupies or is entitled to occupy the dwelling-house as a lessee; or
- (b) is a statutory tenant of the dwelling-house; or
- (c) occupies the dwelling-house as a residence under a restricted contract; or
- (d) is a protected occupier, within the meaning of the Rent (Agriculture) Act 1976; or
- (e) is a licensee under an assured agricultural occupancy;”
- (3) In that subsection after the definition of “owner” there shall be inserted—
- ““owner-occupier”, in relation to a dwelling-house, means the person who, as owner or lessee under a long tenancy, within the meaning of Part I of the Leasehold Reform Act 1967, occupies or is entitled to occupy the dwelling-house;
- “person managing” has the same meaning as in Part XI”.
- (4) In that subsection in the definition beginning “person having control” for the words “subject to section 191(3A)” there shall be substituted “ subject to sections 189(1B), 190(1C) and 191 ” and in paragraph (a) after the words “dwelling-house” there shall be inserted “ or house in multiple occupation ”.
- (5) In that subsection in the definition beginning “premises” after the words “dwelling-house” there shall be inserted “ house in multiple occupation ”.
- (6) In subsection (2) of that section after the words “dwelling-house”, in the first place where they occur, there shall be inserted “ or house in multiple occupation ”.
- 13 In section 208 (index of defined expressions for Part VI)—
- (a) the entries beginning “house” and “reasonable expense” shall be omitted;
- (b) in the entry beginning “occupying tenant” for the words in the second column there shall be substituted “ section 207 ”; and
- (c) at the appropriate places in alphabetical order there shall be inserted the following entries—

“dwelling-house	sections 205 and 207
flat	section 207
house in multiple occupation (and flat in multiple occupation)	section 345

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owner-occupier	section 207
person managing	section 398
premises	section 207
restricted contract	section 622
statutory tenant	section 622”

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