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SCHEDULES

SCHEDULE 3

HOUSING ASSOCIATION TENANCIES

PART I

INTERIM PROTECTION OF HOUSING ASSOCIATION TENANTS

- 1 (1) The provisions of this Part of this Schedule apply where,—
- (a) before the passing of this Act, any premises have been let on a tenancy (in this Part of this Schedule referred to as " the former tenancy "); and
 - (b) by reason only of section 5(5) of the Rent Act 1968 or of section 5(4) of the Rent (Scotland) Act 1971 (exclusion of housing association tenancies from protection) the former tenancy was not a protected tenancy on the relevant day; and
 - (c) the former tenancy has come to an end before the passing of this Act or comes to an end after the passing of this Act but before the operative date ; and
 - (d) at any time after the passing of this Act or the termination of the former tenancy, whichever is the later, any of the persons specified in sub-paragraph (3) below remains in occupation of the premises or part of them and in residence therein.
- (2) In this Part of this Schedule " the relevant day ", in relation to a tenancy, means,—
- (a) in the case of a tenancy which expired before the passing of this Act, the day on which it expired ; and
 - (b) in any other case, the day immediately preceding that on which this Act was passed.
- (3) The persons referred to in sub-paragraph (1)(d) above are—
- (a) the tenant under the former tenancy ;
 - (b) any person to whom the premises or any part thereof has been lawfully sublet as a dwelling ; and
 - (c) where any such person as is mentioned in paragraph (a) or paragraph (b) above has died, any person who, if the deceased had been the original tenant, within the meaning of Schedule 1 to the Rent Act 1968, or to the Rent (Scotland) Act 1971, of the premises or part would have been the first successor, within the meaning of that Schedule, or would have become the statutory tenant on the death of that first successor.
- 2 (1) In this paragraph " the occupier", in relation to any premises, means the person remaining in occupation and in residence as mentioned in paragraph 1(1)(d) above and "the owner", in relation to any premises, means the person who, as against the occupier, is entitled to possession thereof ; and the following provisions of this paragraph shall have effect subject to paragraph 3 below.

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- (2) Without prejudice to any power of the court apart from this Part of this Schedule to postpone the operation or suspend the execution of an order for possession, if in proceedings by the owner against the occupier of any premises the court makes, or has before the passing of this Act made, an order for possession the court may suspend the execution of the order for such period, not exceeding 12 months from the date of the order, as the court thinks reasonable.
- (3) Where the court by virtue of this paragraph suspends the execution of an order for possession of any premises it may authorise the withdrawal from the occupier of any specified services or furniture and impose such terms and conditions, including conditions as to the payment by the occupier of arrears of rent, rent or mesne profits and otherwise, as the court thinks reasonable.
- (4) The court may from time to time vary the period of suspension or terminate it and may vary any terms or conditions imposed by virtue of this paragraph, but shall not extend the period of suspension beyond the end of 12 months from the date of the order for possession.
- (5) In considering whether or how to exercise its powers under this paragraph the court shall have regard to all the circumstances and, in particular, to the following, namely—
- (a) whether the occupier has failed (whether before or after the termination of the former tenancy) to observe any terms or conditions thereof;
 - (b) whether he has unreasonably refused an offer of a tenancy of the premises or part of them for a reasonable term ; and
 - (c) whether greater hardship would be caused by the suspension of the execution of the order for possession than by its execution without suspension or further suspension.
- (6) Where in proceedings for the recovery of possession of any premises the court makes an order for possession but suspends the execution of the order by virtue of subparagraph (2) above it shall make no order for costs, unless it appears to the court, having regard to the conduct of the owner or of the occupier, that there are special reasons for making such an order.
- (7) In the application of this paragraph to Scotland—
- (a) for any reference to an order for possession there shall be substituted a reference to a decree of removing or warrant of ejection,
 - (b) for the reference to mesne profits there shall be substituted a reference to damages arising from unlawful possession, and
 - (c) for the reference to costs there shall be substituted a reference to expenses.
- 3 (1) If at any time before the operative date the interest which, on the relevant day, was the interest of the landlord under the former tenancy (in this paragraph referred to as "the landlord's interest") becomes vested in one of the bodies specified in section 5(2) of the Rent Act 1968 or of the Rent (Scotland) Act 1971 (bodies whose tenancies are excluded from protection under that Act) the court may not, in exercise of its power under paragraph 2(4) above, vary the period of suspension otherwise than by shortening it.
- (2) If on the operative date the landlord's interest belongs to a housing association then, without prejudice to the provisions of Parts II and III below and to the continued operation of any provision made before that date by virtue of paragraph 2 above, the powers of the court under that paragraph shall on that date cease to be exercisable.

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- 4 (1) In this Part of this Schedule " the court ",—
- (a) in relation to premises in England or Wales, means the county court; and
 - (b) in relation to premises in Scotland, means the sheriff.
- (2) Any powers of a county court in proceedings for the recovery of possession of any premises in circumstances where the powers conferred by this Part of this Schedule are or may be exercisable may be exercised by any registrar of the court, except in so far as rules of court otherwise provide.
- (3) Except in so far as the context otherwise requires, expressions to which a meaning is assigned by section 113 of the Rent Act 1968 or, in Scotland, section 133 of the Rent (Scotland) Act 1971 have the same meanings in this Part of this Schedule.