



Rent Act 1974

1974 CHAPTER 51

An Act to amend the Rent Act 1968 and the Rent (Scotland) Act 1971 and the provisions of Part II of the Housing Finance Act 1972 and of the Housing (Financial Provisions) (Scotland) Act 1972 relating to rent allowances, and for connected purposes. [31st July 1974]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications of Rent Act in relation to furnished and other tenancies

1 Extension of protection afforded to furnished tenancies

- (1) On and after the commencement date,—
 - (a) a tenancy of a dwelling-house shall no longer be prevented from being a protected tenancy for the purposes of the Rent Act by reason only that, under the tenancy, the dwelling-house is bona fide let at a rent which includes payments in respect of the use of furniture; and
 - (b) subject to the following provisions of this Act, references in the Rent Act (and in any other enactment or instrument in which those expressions have the same meaning as in that Act) to a protected tenancy, a statutory tenancy or a regulated tenancy shall be construed accordingly.
- (2) Any reference in this Act or the Rent Act to a protected furnished tenancy, a statutory furnished tenancy or a regulated furnished tenancy is a reference to a protected tenancy, a statutory tenancy or a regulated tenancy, as the case may be, under which the rent for the dwelling-house concerned includes such payments in respect of the use of furniture as, apart from subsection (1) above, subsection (4)(a) below and the repeals effected by this Act, would prevent a tenancy of the dwelling-house at that rent from being a protected tenancy.

- (3) Notwithstanding anything in section 7(1) of or Schedule 2 to the Rent Act (controlled and regulated tenancies) no protected furnished tenancy or statutory furnished tenancy shall be a controlled tenancy.
- (4) In consequence of the provisions of this Act,—
- (a) in section 2(1)(b) of the Rent Act (exclusion from protection of tenancies where the rent includes payments in respect of board, attendance or use of furniture) for the words " attendance or use of furniture " there shall be substituted the words " or attendance ";
 - (b) Schedule 3 to the Rent Act (grounds for possession) shall have effect subject to the modifications in Part I of Schedule 1 to this Act;
 - (c) Parts IV, VIII and IX of the Rent Act 1968 shall have effect subject to the amendments in Part II of that Schedule; and
 - (d) Parts IV, IX and X of the Rent (Scotland) Act 1971 shall have effect subject to the amendments in Part III of that Schedule.

2 Certain tenancies not to be protected

- (1) In subsection (1) of section 2 of the Rent Act (tenancies excepted from definition of " protected tenancy") after paragraph (b) there shall be inserted the following paragraphs:—
- “(bb) the tenancy is granted to a person who is pursuing or intends to pursue a course of study provided by a specified educational institution and is so granted either by that institution or by another specified institution or body of persons; or
 - (bbb) the purpose of the tenancy is to confer on the tenant the right to occupy the dwelling-house for a holiday; or”.
- (2) After subsection (3) of section 2 of the Rent Act there shall be added the following subsection:—
- “(4) In paragraph (bb) of subsection (1) above " specified " means specified, or of a class specified, for the purposes of that paragraph by regulations made by the Secretary of State by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) After section 5 of the Rent Act there shall be inserted the section 5A set out in paragraph 1 or, as the case may require, paragraph 2 of Part I of Schedule 2 to this Act and, accordingly, in section 1(1) of the Rent Act (definition of protected tenancy) at the end of paragraph (c) there shall be added the words—
- “or
- (d) by virtue of section 5A below, the tenancy has at all times since it was granted been precluded from being a protected tenancy”.
- (4) Part IX of the Rent Act 1968 shall have effect subject to the amendments in Part II of Schedule 2 to this Act and Part X of the Rent (Scotland) Act 1971 shall have effect subject to the amendments in Part III of that Schedule.

3 Recovery of possession of dwelling-houses let on certain tenancies

- (1) In Part II of Schedule 3 to the Rent Act 1968 (Cases in which court must order possession of dwelling-house subject to regulated tenancy) the following Cases shall be inserted after Case 10:—

“Case 10A

Where a person (in this Case referred to as " the owner ") who acquired the dwelling-house or any interest therein with a view to occupying it as his residence at such time as he might retire from regular employment let it on a regulated tenancy before he has so retired and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) the dwelling-house has not, since the commencement date, within the meaning of the Rent Act 1974, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (a) above was not satisfied; and
- (c) the court is satisfied either that the owner has retired from regular employment and requires the dwelling-house as a residence or that the owner has died and the dwelling-house is required as a residence for a member of his family who was residing with him at the time of his death:

Provided that if the court is of the opinion that, notwithstanding that the condition in paragraph (a) or paragraph (b) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require.

Case 10B

Where the dwelling-house is let under a tenancy for a term of years certain not exceeding 8 months and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) the dwelling-house was, at some time within the period of 12 months ending on the relevant date, occupied under a right to occupy it for a holiday ;

and for the purposes of this Case a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term.

Case 10C

Where the dwelling house is let under a tenancy for a term of years certain not exceeding 12 months and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) at some time within the period of 12 months ending on the relevant date, the dwelling-house was subject to such a tenancy as is referred to in section 2(1) (bb) of this Act;

and for the purposes of this Case a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the

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happening of any event other than the giving of notice by the landlord to determine the term.”

- (2) In Part II of Schedule 3 to the Rent (Scotland) Act 1971 (Cases in which court must order possession of dwelling-house subject to regulated tenancy) the following Cases shall be inserted after Case 11:—

“Case 11A

Where a person (in this Case referred to as " the owner ") who acquired the dwelling-house or any interest therein with a view to occupying it as his residence at such time as he might retire from regular employment let it on a regulated tenancy before he has so retired and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) the dwelling-house has not, since the commencement date, within the meaning of the Rent Act 1974, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (a) above was not satisfied; and
- (c) the court is satisfied either that the owner has retired from regular employment and requires the dwelling-house as a residence or that the owner has died and the dwelling-house is required as a residence for a member of his family who was residing with him at the time of his death:

Provided that if the court is of the opinion that, notwithstanding that the condition in paragraph (a) or paragraph (b) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require.

Case 11B

Where the dwelling-house is let under a tenancy for a specified period not exceeding 8 months and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) the dwelling-house was, at some time within the period of 12 months ending on the relevant date, occupied under a right to occupy it for a holiday ;

and for the purposes of this Case a tenancy shall be treated as being for a specified period—

- (i) of less than 8 months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of 8 months from the commencement of the period of the tenancy, and
- (ii) of 8 months or more, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, amounts to 8 months or more, and it is not determinable as mentioned in paragraph (i) above.

Case 11C

Where the dwelling-house is let under a tenancy for a specified period not exceeding 12 months and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) at some time within the period of 12 months ending on the relevant date the dwelling-house was subject to such a tenancy as is referred to in section 2(1)(bb) of this Act;

and for the purposes of this Case a tenancy shall be treated as being for a specified period—

- (i) of less than 12 months, if it is determinable at the option of the landlord (other than in the event of an irritancy being incurred) before the expiration of 12 months from the commencement of the period of the tenancy, and
- (ii) of 12 months or more, if it confers on the tenant an option for renewal of the tenancy for a period which, together with the original period, amounts to 12 months or more, and it is not determinable as mentioned in paragraph (i) above.”

- (3) At the end of Case 10 in Part II of Schedule 3 to the Rent Act 1968 and at the end of Case 11 in Part II of Schedule 3 to the Rent (Scotland) Act 1971 there shall be added the following proviso:—

“Provided that if the court is of the opinion that, notwithstanding that the condition in paragraph (a) or paragraph (b) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require”.

4 Advance application for registration of a new rent

- (1) At the beginning of subsection (3) of section 44 of the Rent Act 1968 (no application for registration of a new rent until three years after a previous registration) there shall be inserted the words " Subject to subsection (3A) below " and at the end of that subsection there shall be added the following subsection:—

“(3A) Notwithstanding anything in subsection (3) above, an application such as is mentioned in that subsection which is made by the landlord alone and is so made within the last three months of the period of three years referred to in that subsection may be entertained notwithstanding that that period has not expired.”

- (2) At the beginning of subsection (1) of section 48 of that Act (effect of registration of rent) there shall be inserted the words " Subject to subsection (1A) below " and at the end of that subsection there shall be added the following subsection:—

“(1A) Where, by virtue of subsection (3A) of section 44 above, an application is made before the expiry of the period of three years referred to in subsection (3) of that section, subsection (1) above shall have effect as if for the reference to the date of the application there were substituted a reference to the first day after the expiry of that period of three years.”

- (3) At the beginning of subsection (3) of section 40 of the Rent (Scotland) Act 1971 (no application for registration of a new rent until three years after a previous registration) there shall be inserted the words " Subject to subsection (3A) below " and at the end of that subsection there shall be added the following subsection:—

“(3A) An application such as is mentioned in subsection (3) above which is made by the landlord alone and is so made within the last three months of the period of

three years referred to in that subsection may be entertained before the expiry of that period, notwithstanding that the application is not made upon any of the grounds mentioned in that subsection.”

- (4) At the beginning of subsection (1) of section 44 of the said Act of 1971 (effect of registration of rent) there shall be inserted the words " Subject to subsection (1A) below " and at the end of that subsection there shall be added the following subsection:

“(1A) Where, by virtue of subsection (3A) of section 40 above, an application is made before the expiry of the period of three years referred to in subsection (3) of that section, subsection (1) above shall have effect as if for the reference to the date of the application there were substituted a reference to the first day after the expiry of that period of three years.”

5 Transitional provisions affecting furnished lettings which become furnished tenancies

- (1) In any case where—
- (a) immediately before the commencement date a dwelling is subject to a furnished letting and a rent is registered for that dwelling under the relevant Part of the Rent Act, and
 - (b) on the commencement date that furnished letting becomes a protected furnished tenancy by virtue of section 1 above,

the amount which is so registered under the relevant Part of the Rent Act shall be deemed to be registered under Part IV of that Act as the rent for the dwelling-house which is let on that tenancy, and that registration shall be deemed to take effect on the commencement date.

- (2) Section 44(3) of the Rent Act 1968, or, as the case may require, section 40(3) of the Rent (Scotland) Act 1971 (no application for registration of a different rent to be made within 3 years of the last registration) shall not apply to an application for the registration under Part IV of the Rent Act of a rent different from that which is deemed to be registered as mentioned in subsection (1) above.
- (3) The reference in section 45(1)(b) of the Rent Act 1968 or, as the case may require, section 41(1)(b) of the Rent (Scotland) Act 1971 (certificates of fair rent) to a rent being registered for a dwelling-house does not include a rent which is deemed to be registered as mentioned in subsection (1) above.
- (4) In any case where—
- (a) before the commencement date a notice to quit had been served in respect of a dwelling to which a furnished letting then related, and
 - (b) the period at the end of which that notice to quit takes effect had, before the commencement date, been extended under the relevant Part of the Rent Act, and
 - (c) that period has not expired before the commencement date, and
 - (d) on the commencement date the furnished letting becomes a protected furnished tenancy by virtue of section 1 above,

the notice to quit shall take effect on the day following the commencement date (whenever it would otherwise take effect) and, accordingly, on that day the protected furnished tenancy shall become a statutory furnished tenancy.

Furnished Lettings (England and Wales)

6 Furnished lettings: increase in rateable value limits

In section 71 of the Rent Act 1968 (dwellings to which Part VI applies) for subsection (1) there shall be substituted the following subsections:—

“(1) Subject to any provision made by an order under subsection (2) below, where the appropriate day in relation to any dwelling fell before 1st April 1973, this Part of this Act applies to the dwelling if—

- (a) it had on the appropriate day a rateable value not exceeding, if it is in Greater London, £400, or, if it is elsewhere, £200 ; or
- (b) it had on 1st April 1973 a rateable value not exceeding, if it is in Greater London, £1,500, or, if it is elsewhere, £750.

(1A) Subject to any provision made by an order under subsection (2) below, where the appropriate day in relation to any dwelling fell or falls on or after 1st April 1973, this Part of this Act applies to the dwelling if it has or had on the appropriate day a rateable value not exceeding, if it is in Greater London, £1,500, or, if it is elsewhere, £750.”

7 Furnished lettings: amendments relating to control and registration of rents

(1) In section 73(1) of the Rent Act 1968 (powers of rent tribunals on reference of Part VI contracts) in paragraph (b) (power to reduce the rent to such sum as the tribunal thinks reasonable) after the word "reduce" there shall be inserted the words " or increase " and accordingly the following provisions of that Act shall cease to have effect, namely,—

- (a) section 73(3) (under which the tribunal could, in respect of certain long-standing contracts, approve a rent higher than that payable under the contract); and
- (b) section 75(2) (under which, on a reference made after a rent had been registered, the tribunal had power to increase the rent payable).

(2) For subsection (5) of section 73 of that Act (the tribunal need not entertain any reference made by a lessee or lessor alone if they are satisfied that the reference is frivolous or vexatious) there shall be substituted the following subsection:—

“(5) Where the rent under a Part VI contract has been registered under section 74 below, a rent tribunal shall not be required to entertain a reference, made otherwise than by the lessor and the lessee jointly, for the registration of a different rent for the dwelling concerned before the expiry of the period of three years beginning on the date on which the rent was last considered by the tribunal, except on the ground that, since that date, there has been such a change in the condition of the dwelling, the furniture or services provided, the terms of the contract or any other circumstances taken into consideration when the rent was last considered as to make the registered rent no longer a reasonable rent.”

(3) In section 74 of that Act (register of rents under Part VI contracts) after subsection (2) there shall be inserted the following subsection:—

“(2A) Where any rates in respect of a dwelling are borne by the lessor or any person having any title superior to that of the lessor, the amount to be entered in the register under this section as the rent payable for the dwelling shall be the

same as if the rates were not so borne ; but the fact that they are so borne shall be noted in the register.”

- (4) In section 75(1) of that Act (reconsideration of rent after registration) after the words " section 74 above " there shall be inserted the words " then, subject to section 73(5) above " and the words " on the ground of change of circumstances " shall be omitted.
- (5) In section 76 of that Act (effect of registration of rent) after subsection (1) there shall be added the following subsection:—
- “(1A) Where subsection (2A) of section 74 above applies, the amount entered in the register under that section shall be treated for the purposes of this section as increased for any rental period by the amount of the rates for that period, ascertained in accordance with Schedule 4 to this Act.”
- (6) In section 84(1) of that Act (interpretation of Part VI) after the definition of " register" there shall be inserted the following definition:—
- ““ rental period ' means a period in respect of which a payment of rent falls to be made”.

8 Furnished lettings: amendments relating to security of tenure

- (1) In section 78(1) of the Rent Act 1968 (application by lessee to rent tribunal for extension of period before notice to quit takes effect) paragraph (c) (no application may be made if the rent tribunal has previously granted an extension of less than six months) shall be omitted.
- (2) In section 80 of that Act (reduction of period of notice on account of lessee's default) at the end of paragraph (c) of subsection (2) there shall be added the words “or
- (d) that the condition of any furniture provided for the use of the lessee under the contract has deteriorated owing to any ill-treatment by the lessee or any person residing or lodging with him”.

Furnished lettings (Scotland)

9 Furnished lettings: amendments relating to control and registration of rents

- (1) In section 88(1) of the Rent (Scotland) Act 1971 (powers of rent tribunals on reference of Part VII contracts) in paragraph (b) (power to reduce the rent to such sum as the tribunal thinks reasonable) after the word " reduce " there shall be inserted the words " or increase " , and accordingly section 90(2) of that Act (under which, on a reference made after a rent had been registered, the tribunal had power to increase the rent payable) shall cease to have effect.
- (2) For subsection (4) of section 88 of that Act (the tribunal need not entertain any reference made by a lessee or lessor alone if they are satisfied that the reference is frivolous or vexatious) there shall be substituted the following subsection:—
- “(4) Where the rent under a Part VII contract has been registered under section 89 below, a rent tribunal shall not be required to entertain a reference, made otherwise than by the lessor and the lessee jointly, for the registration of a different rent for the dwelling-house concerned before the expiry of the period of 3 years beginning on the date on which the rent was last considered by the tribunal, except on the ground that, since that date, there has been such

a change in the condition of the dwelling-house, the furniture or services provided, the terms of the contract or any other circumstances taken into consideration when the rent was last considered as to make the registered rent no longer a reasonable rent.”

- (3) In section 89 of that Act (register of rents under Part VII contracts) after subsection (2) there shall be inserted the following subsection:—

“(2A) Where any rates in respect of a dwelling-house are borne by the lessor, the amount to be entered in the register under this section as the rent payable for the dwelling-house shall be the same as if the rates were not so borne; but the fact that they are so borne shall be noted in the register.”

- (4) In section 90(1) of that Act (reconsideration of rent after registration) after the words " section 89 above " there shall be inserted the words " then, subject to section 88(4) above " and the words " on the ground of change of circumstances " shall be omitted.

- (5) In section 91 of that Act (effect of registration of rent) after subsection (1) there shall be added the following subsection:—

“(1A) Where subsection (2A) of section 89 above applies, the amount entered in the register under that section shall be treated for the purposes of this section as increased for any rental period by the amount of the rates for that period ascertained in accordance with Schedule 4 to this Act.”

- (6) In section 100(1) of that Act (interpretation of Part VII) after the definition of " register " there shall be inserted the following definition :—

“" rental period " means a period in respect of which a payment of rent falls to be made”.

10 Furnished lettings: amendments relating to security of tenure

- (1) In section 93(1) of the Rent (Scotland) Act 1971 (application by lessee to rent tribunal for extension of period before notice to quit takes effect) paragraph (c) (no application may be made if the rent tribunal has previously granted an extension of less than six months) shall be omitted.

- (2) In section 95 of that Act (reduction of period of notice on account of lessee's default) at the end of paragraph (c) of subsection (2) there shall be added the words “or

(d) that the condition of any furniture provided for the use of the lessee under the contract has deteriorated owing to any ill-treatment by the lessee or any person residing or lodging with him”.

Supplementary

11 Rent allowances

- (1) On and after such day as the Secretary of State may by order made by statutory instrument appoint, so much of Part II of the Housing Finance Act 1972 (rent rebates and rent allowances) as requires that, in order to qualify for an allowance, a person occupying a dwelling under a Part VI letting must be a qualified person, within the meaning of section 19(12) of that Act, shall cease to have effect.

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- (2) The proviso to subsection (1) of section 25 of the Housing Finance Act 1972 (which, in the case of certain furnished lettings, determines the rent which is eligible to be met by a rebate or an allowance for the purposes of Schedule 3 to that Act) shall cease to have effect on the commencement date.
- (3) Notwithstanding anything in subsection (2) above, in the case of a person who immediately before the commencement date was a tenant under a Part VI letting, the provisions of subsection (4) below shall apply if, for an allowance period which was current on or ended immediately before the commencement date, the tenant was entitled to an allowance towards the rent payable under the Part VI letting and, in calculating that allowance for the last week of that period which ended before the commencement date, the rent which, for the purposes of Schedule 3 to the Housing Finance Act 1972, was eligible to be met by a rebate or an allowance was that determined under paragraph (a) of the proviso to section 25(1) of that Act (the occupational element of the rent or of the residue of the rent plus 25 per cent).
- (4) If, by virtue of subsection (3) above, this subsection applies in relation to a tenant, then, subject to subsection (5) below, on and after the commencement date, if and so long as—
- (a) the tenant continues to occupy as his home the dwelling to which, immediately before that date, the Part VI letting referred to in subsection (3) above applied, and
 - (b) the tenant continues to be entitled to an allowance towards the rent payable by him for that dwelling, and
 - (c) that rent continues to include payment for the use of furniture,
- the rent which, for the purposes of Schedule 3 to the Housing Finance Act 1972, is eligible to be met by a rebate or an allowance shall, in his case, be the amount of the rent which was so eligible for the week mentioned in subsection (3) above (in this section referred to as "the former eligible rent").
- (5) For any week of an allowance period when, apart from this subsection, subsection (4) above would apply in relation to a tenant, that subsection shall cease to apply if—
- (a) the amount determined under section 25(1) of the Housing Finance Act 1972 as the rent which is eligible to be met by a rebate or an allowance exceeds the former eligible rent, or
 - (b) the rent recoverable from the tenant, exclusive of any part thereof attributable to rates, is less than the former eligible rent, or
 - (c) part of the dwelling is sub-let and the former eligible rent either did not take account of the occupational element of any rent payable by a sub-tenant or took account of such an element which is less than the occupational element of the rent payable for that week by the sub-tenant,
- and, accordingly, from the beginning of that week the rent which is eligible to be met by a rebate or an allowance shall be that determined as mentioned in paragraph (a) above.
- (6) In subsection (1) of section 25 of the Housing Finance Act 1972 after the words "of the rent" there shall be inserted, in substitution for the words there inserted by paragraph 17 of Schedule 1 to the Furnished Lettings (Rent Allowances) Act 1973, the words " (or if, in the case of an allowance, any amount falls to be deducted by virtue of paragraph 14 of Schedule 4 to this Act, the occupational element of the residue of the rent remaining after deducting those amounts) ".

- (7) Subsections (2) and (3) of the said section 25 shall be amended as follows:—
- (a) at the end of subsection (2) there shall be added the words “and
 - (c) less, in the case of an allowance, any amount which, in the case of the tenant concerned, is prescribed as a deduction by virtue of paragraph (c) of subsection (3) below”; and
 - (b) at the end of subsection (3) there shall be added the words “and
 - (c) prescribe deductions from rent for the purposes of subsection (2)(c) above in the case of tenants of such descriptions as may be specified in the regulations who are for the time being in receipt of awards or grants under any provision of sections 1 to 3 of the Education Act 1962 or any other award or grant which is paid out of money provided by Parliament and is determined by the Secretary of State to be an analogous award or grant,

and different provision may be made by virtue of paragraph (c) above in relation to different periods and different classes of awards or grants”.
- (8) In subsection (1) of section 26 of the Housing Finance Act 1972 (interpretation of Part II) in the definition of “tenant” after paragraph (c) there shall be inserted the following paragraph:—
- “(d) a person who is treated as a private tenant under a Part VI letting by virtue of subsection (8A) of section 19 of this Act”.
- (9) The said section 26 shall apply in relation to subsections (1) to (5) above as if those subsections were included in Part II of the Housing Finance Act 1972 and, without prejudice to the application of that section, the reference in subsection (3) above to a tenant under a Part VI letting includes a reference to a person who is treated as if he were a private tenant under a Part VI letting by virtue of section 19(8A) of that Act and any reference in that subsection or subsection (4) above to a Part VI letting means, in relation to a person who is so treated, the letting referred to in the said section 19(8A).

12 Rent allowances in Scotland

- (1) On and after such day as the Secretary of State may by order made by statutory instrument appoint, so much of section 16 of the Act of 1972 (rent allowances) as requires that, for certain persons to be or to be treated as private tenants, they must be qualified persons within the meaning of subsection (8) of that section, shall cease to have effect.
- (2) In paragraph 15(1)(g)(ii) of Schedule 3 to the Act of 1972 (which provides that in ascertaining the amount of an allowance in respect of a furnished letting a certain amount of rent payable is to be disregarded), the words “125 per cent. of” shall cease to have effect on the commencement date.
- (3) Notwithstanding anything in subsection (2) above, in the case of a person who immediately before the commencement date was a tenant of a dwelling-house under a furnished letting, the provisions of subsection (4) below shall apply, if, for an allowance period which was current on or ended immediately before that date, the tenant was entitled to an allowance towards the rent payable under the furnished letting which was calculated, for the last week of that period which ended before that date, by reference to an amount of rent which, after making the deduction (if any) required

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by head (i) of paragraph 15(1)(g) of Schedule 3 to the Act of 1972, was more than the estimated fair rent referred to in head (ii) of that paragraph but not more than 125 per cent. of that estimated fair rent.

(4) If, by virtue of subsection (3) above, this subsection applies in relation to a tenant, then, if and so long as he continues on and after the commencement date to be—

(a) a tenant of the same dwelling-house under the same letting (whether or not it continues to be a furnished letting) and

(b) entitled to an allowance towards the rent under the letting concerned,

the allowance shall be calculated by reference to the amount of rent referred to in subsection (3) above until—

(i) the rent recoverable from the tenant for any week of an allowance period is less than the amount referred to in that subsection, or

(ii) the amount of rent by reference to which, but for this subsection, the allowance for any such week would be calculated is higher than the amount referred to in subsection (3) above,

whichever is the earlier; and as from the beginning of that week the allowance shall be calculated by reference to the amount of rent to which an authority would be entitled to have regard but for this subsection.

(5) Paragraph 17 of Schedule 2 to the Act of 1972 shall be amended as follows—

(a) in sub-paragraph (1) for the words " sub-paragraph (2) below" there shall be substituted the words " the following provisions of this paragraph ";

(b) at the end there shall be added the following sub-paragraphs—

“(3) It shall be the duty of every authority, for the purpose of computing the amount of an allowance towards the rent payable by tenants of such classes as may be prescribed who are for the time being in receipt of—

(a) an award or grant, being a bursary, scholarship or allowance granted under section 49(1) or 75(f) of the Education (Scotland) Act 1962, or

(b) any other award or grant which is paid out of money provided by Parliament and is determined by the Secretary of State to be analogous to any such bursary, scholarship or allowance,

to treat the rent as reduced by such amount as may be prescribed.

(4) In sub-paragraph (3) above " prescribed " means prescribed by regulations made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Regulations under this paragraph may make different provision in relation to different periods and different classes of awards or grants.”

(6) In this section "the Act of 1972" means the Housing (Financial Provisions) (Scotland) Act 1972; and section 22 of the Act of 1972 (interpretation of Part II of that Act) shall apply in relation to this section as if it were included in that Part.

13 Effect on furnished sub-tenancy of determination of superior unfurnished tenancy

- (1) Without prejudice to the operation of section 1(1) above if, in a case where subsection (2) of section 18 of the Rent Act 1968 or, as the case may require, section 17 of the Rent (Scotland) Act 1971 applies (effect on sub-tenancies of determination of superior tenancy), the relevant conditions are fulfilled, the terms on which the sub-tenant is, by virtue of that subsection, deemed to become the tenant of the landlord shall not include any terms as to the provision by the landlord of furniture or services.
- (2) The relevant conditions referred to in subsection (1) above are—
 - (a) that the tenancy or statutory tenancy which is determined as mentioned in the said section 18(2) or, as the case may require, 17(2) was neither a protected furnished tenancy nor a statutory furnished tenancy; and
 - (b) that, immediately before the determination of that tenancy or statutory tenancy, the sub-tenant referred to in that section was the tenant under a protected furnished tenancy or a statutory furnished tenancy; and
 - (c) that the landlord, within the period of six weeks beginning with the day on which the tenancy or statutory tenancy referred to in that section is determined, serves notice on the sub-tenant that this section is to apply to his tenancy or statutory tenancy.

14 Power of court, in action for possession, to reduce period of notice to quit

- (1) After section 80 of the Rent Act 1968 there shall be inserted the following section:—

“80A Power of county court, in action for possession, to reduce period of notice to quit.

In any case where—

- (a) a notice to quit a dwelling which is the subject of a Part VI contract has been served, and
- (b) the period at the end of which the notice to quit takes effect is for the time being extended by virtue of section 77 or section 78 above, and
- (c) at some time during that period the lessor institutes proceedings in the county court for the recovery of possession of the dwelling, and
- (d) in those proceedings the county court is satisfied that any of paragraphs (a) to (d) of section 80(2) above applies,

the court may direct that the period referred to in paragraph (b) above shall be reduced so as to end at a date specified in the direction.”

- (2) At the end of subsection (3) of section 106 of that Act (rules as to procedure) there shall be added the words " and section 80A ".
- (3) After section 95 of the Rent (Scotland) Act 1971 there shall be inserted the following section:—

“95A Power of sheriff, in action for possession, to reduce period of notice to quit.

In any case where—

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- (a) a notice to quit a dwelling-house which is the subject of a Part VII contract has been served, and
 - (b) the period at the end of which the notice to quit takes effect is for the time being extended by virtue of section 92 or section 93 above, and
 - (c) at some time during that period the lessor institutes proceedings before the sheriff for possession of the dwelling-house, and
 - (d) in those proceedings the sheriff is satisfied that any of paragraphs (a) to (d) of section 95(2) above applies,
- the sheriff may direct that the period referred to in paragraph (b) above shall be reduced so as to end at a date specified in the direction.”

15 Interpretation

(1) In this Act—

" commencement date " means the date on which this Act comes into operation;

" dwelling ", in relation to a furnished letting, means a house or part of a house ;

" furnished letting " means a Part VI contract, as defined in section 70(6) of the Rent Act 1968 or, as the case may require, a Part VII contract, as defined in section 85(5) of the Rent (Scotland) Act 1971;

" protected furnished tenancy ", " regulated furnished tenancy " and " statutory furnished tenancy " shall be construed in accordance with section 1(2) above;

" the Rent Act " means, in relation to England and Wales, the Rent Act 1968 and, in relation to Scotland, the Rent (Scotland) Act 1971;

" the relevant Part of the Rent Act " means Part VI of the Rent Act 1968 or, as the case may require, Part VII of the Rent (Scotland) Act 1971; and

" services " has the same meaning as in the relevant Part of the Rent Act.

(2) Without prejudice to subsection (1) above, section 113(1) of the Rent Act 1968 or, as the case may require, section 133(1) of the Rent (Scotland) Act 1971 (interpretation) shall apply for the purposes of this Act other than sections 11 and 12 above as it applies for the purposes of that Act.

(3) Except in so far as the context otherwise requires, any reference in this Act to any other enactment shall be taken as referring to that enactment as amended by or under any other enactment, including this Act.

16 Transitional provisions and repeals

(1) The transitional provisions in Schedule 3 to this Act shall have effect, notwithstanding anything in the preceding provisions of this Act.

(2) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule but, in the case of the enactments specified in Part II of that Schedule, only with effect from the day appointed for the purposes of subsection (1) of sections 11 and 12 above.

17 Short title, citation, application, commencement and extent

- (1) This Act may be cited as the Rent Act 1974.
- (2) This Act and the Rent Act 1968 may be cited together as the Rent Acts 1968 and 1974.
- (3) This Act and the Rent (Scotland) Acts 1971 and 1972 may be cited together as the Rent (Scotland) Acts 1971 to 1974.
- (4) In section 115 of the Rent Act 1968 (application to Isles of Scilly)—
 - (a) in subsection (1), after the words " this Act" there shall be inserted the words " and the Rent Act 1974 ";
 - (b) at the end of paragraph (e) of subsection (2) there shall be inserted the words "and
 - (f) any provision of this Act which is derived from the Rent Act 1974, other than a provision of Part VI of this Act, and any other provision of the Rent Act 1974".
- (5) This Act shall come into operation at the expiry of the period of two weeks beginning with the date on which it is passed.
- (6) Sections 3(1), 4(1) and (2), 6, 7, 8, 11 and 14(1) and (2) of this Act and Part II of Schedules 1 and 2 to this Act do not extend to Scotland and sections 3(2), 4(3) and (4), 9, 10, 12 and 14(3) of this Act and Part III of Schedules 1 and 2 to this Act extend to Scotland only.
- (7) This Act does not extend to Northern Ireland.

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

SCHEDULES

SCHEDULE 1

Section 1.

CONSEQUENTIAL AMENDMENTS OF RENT ACT

PART I

AMENDMENTS OF SCHEDULE 3 TO RENT ACT

1 After Case 3 there shall be inserted the following Case:—

“Case 3A

Where 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 person residing or lodging with him or any sub-tenant of his and, in the case of any ill-treatment by a person lodging with the tenant or a sub-tenant of his, where the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or subtenant, as the case may be.”

2 In the application of Case 5 (assignment or sub-letting by tenant without landlord's consent) to a regulated furnished tenancy, for the reference to 8th December 1965 there shall be substituted a reference to the commencement date.

3 In the application of Case 8 (dwelling-house required for landlord or a member of his family) to a dwelling-house subject to a regulated furnished tenancy, for the reference to 23rd March 1965 there shall be substituted a reference to 24th May 1974.

4 (1) In Case 9 (overcharging by tenant of his own sub-tenant)—

- (a) after the words " by the tenant " there shall be inserted " (a) " and the word " also " shall be omitted; and
- (b) subject to sub-paragraph (2) below, at the end of the Case there shall be added the words “or

- (b) for any sublet part of the dwelling-house which is subject to a contract to which Part VI of this Act applies is or was in excess of the maximum (if any) which it is lawful for the lessor, within the meaning of that Part, to require or receive having regard to the provisions of that Part”.

(2) In the application of sub-paragraph (1)(b) above to Scotland for the words " Part VI" there shall be substituted the words " Part VII ".

5 (1) In the application of Case 10 in Schedule 3 to the Rent Act 1968 or, as the case may be, Case 11 in Schedule 3 to the Rent (Scotland) Act 1971 (right of owner-occupier to regain possession) to a dwelling-house subject to a regulated furnished tenancy,

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for the reference to 8th December 1965 there shall be substituted a reference to the commencement date.

- (2) For the purposes of each of the Cases referred to in sub-paragraph (1) above, the giving of a notice before the commencement date under section 79 of the Rent Act 1968 or, as the case may be, section 94 of the Rent (Scotland) Act 1971 (notice by owner-occupier to person taking up furnished letting) shall be treated in the case of a regulated furnished tenancy as compliance with paragraph (a) of the Case in question.
- 6 In Part III, in paragraph 2 (definition of relevant date) at the beginning of sub-paragraph (a) there shall be inserted the words " except in the case of a regulated furnished tenancy " , and after that sub-paragraph there shall be inserted the following sub-paragraph :—
- “(aa) in the case of a regulated furnished tenancy, if the tenancy or, in the case of a statutory furnished tenancy, the previous contractual tenancy was created before the commencement date, within the meaning of the Rent Act 1974, the relevant date means the date on which expires the period of six months beginning on that commencement date ; and”.
- 7 In Part IV, in paragraph 3 (meaning of suitable alternative accommodation) the following words shall be added at the end of sub-paragraph (1):—
- “and that if any furniture was provided for use under the protected or statutory 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”.

PART II

AMENDMENTS OF PARTS IV, VIII AND IX OF RENT ACT 1968

- 8 In section 44(3) (circumstances in which applications may be made for variation of registered rent) after the words " terms of the tenancy " there shall be inserted the words " the quantity, quality or condition of any furniture provided for use under the tenancy (deterioration by fair wear and tear excluded) ".
- 9 (1) In section 46 (determination of fair rent) in subsection (1) (circumstances to be considered in determining fair rent) for the words from " age " to the end of the subsection there shall be substituted the words " age, character, locality and state of repair of the dwelling-house and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture ".
- (2) At the end of subsection (3) of that section (factors to be disregarded) there shall be inserted the words “and
- (c) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his”.
- 10 In the application of sections 93 to 95 (mortgages) to a dwelling-house subject to a regulated tenancy which is a regulated furnished tenancy, for any reference to 8th December 1965 there shall be substituted a reference to the commencement date.

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- 11 In section 103(1)(b) (certain sublettings not to exclude any part of the lessor's premises from protection) for the words " attendance or use of furniture " there shall be substituted the words " or attendance " .
- 12 In section 105(1) (county court jurisdiction to determine certain questions) after paragraph (d) there shall be inserted the words "or
 (e) as to whether a protected, statutory or regulated tenancy is a protected, statutory or regulated furnished tenancy".
- 13 In section 106(1) (rules as to procedure) after the words " this Act" there shall be inserted the words " or the Rent Act 1974 " .
- 14 In section 107 (powers of local authorities for the purposes of giving information) in subsection (1)(a)(iii) after the words " this Act" there shall be inserted the words " and the Rent Act 1974 " .
- 15 (1) In Schedule 6, in paragraph 10 (procedure on application for registration of rent supported by certificate of fair rent) in sub-paragraph (1) after the words "may be, whether " there shall be inserted " (a) " and at the end of the sub-paragraph there shall be inserted the words "and
 (b) if any furniture is or is to be provided for use under a regulated tenancy of the dwelling-house, the quantity, quality and condition of the furniture in the dwelling-house accords with the prescribed particulars contained in the application for the certificate.".
- (2) In sub-paragraph (2) of that paragraph after the words " may be, that" there shall be inserted " (a) " and after the words " of the certificate " there shall be inserted the words "and
 (b) if any furniture is or is to be provided for use under a regulated tenancy of the dwelling-house, the quantity, quality and condition of the furniture in the dwelling-house accords with the prescribed particulars contained in the application for the certificate".
- 16 In Schedule 7, in paragraph 1 (form and content of application for certificate of fair rent) the word " and " at the end of sub-paragraph (b) shall be omitted and at the end of the paragraph there shall be inserted the words "and
 (d) if any furniture is to be provided for use under a regulated tenancy of the dwelling-house, must contain the prescribed particulars with regard to any such furniture".

PART III

AMENDMENTS OF PARTS IV, IX AND X OF RENT (SCOTLAND) ACT 1971

- 17 In section 40(3) (circumstances in which applications may be made for variation of registered rent) after the words " terms of the tenancy " there shall be inserted the words " the quantity, quality or condition of any furniture provided for use under the tenancy (excluding any deterioration in that furniture due to fair wear and tear) " .
- 18 (1) In section 42 (determination of fair rent) in subsection (1) (circumstances to be considered in determining fair rent) for the words from "age" to the end of the subsection there shall be substituted the words " age, character, locality and state of repair of the dwelling-house and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture " .

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- (2) In subsection (3) of that section (factors to be disregarded)—
- (a) in paragraph (b), after the word "improvement" there shall be inserted the words "(including any improvement to the furniture provided for use under the tenancy)";
 - (b) at the end there shall be inserted the words "and
 - (c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any subtenant of his".
- 19 In the application of sections 110 to 112 (heritable securities) to a dwelling-house subject to a regulated tenancy which is a regulated furnished tenancy, for any reference to 8th December 1965 there shall be substituted a reference to the commencement date.
- 20 In section 120(1)(b) (certain sublettings not to exclude any part of the lessor's premises from protection) for the words "attendance or use of furniture" there shall be substituted the words "or attendance".
- 21 In section 122(1) (jurisdiction) in paragraph (a) after the words "this Act" there shall be inserted the words "or the Rent Act 1974".
- 22 In section 124 (rules as to procedure) after the words "this Act" there shall be inserted the words "or the Rent Act 1974".
- 23 In section 125 (powers of local authorities for the purposes of giving information) in subsection (1)(a) after the word "1965" there shall be inserted the word "and" and after the word "1972" there shall be inserted the words "and the Rent Act 1974".
- 24 (1) In Schedule 6, in paragraph 10 (procedure on application for registration of rent supported by certificate of fair rent) in sub-paragraph (1) after the words "may be, whether" there shall be inserted "(a)" and at the end of the sub-paragraph there shall be inserted the words "and
- (b) if any furniture is or is to be provided for use under a regulated tenancy of the dwelling-house, the quantity, quality and condition of the furniture in the dwelling-house accords with the prescribed particulars contained in the application for the certificate".
- (2) In sub-paragraph (2) of that paragraph after the words "may be, that" there shall be inserted "(a)" and after the words "of the certificate" there shall be inserted the words "and
- (b) if any furniture is or is to be provided for use under a regulated tenancy of the dwelling-house, the quantity, quality and condition of the furniture in the dwelling-house accords with the prescribed particulars contained in the application for the certificate".
- 25 In Schedule 7, in paragraph 1 (form and content of application for certificate of fair rent) the word "and" at the end of sub-paragraph (b) shall be omitted and at the end of the paragraph there shall be inserted the words "and
- (d) if any furniture is to be provided for use under a regulated tenancy of the dwelling-house, must contain the prescribed particulars with regard to any such furniture".

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SCHEDULE 2

Section 2.

TENANCIES GRANTED BY RESIDENT LANDLORDS

PART I

SECTION TO BE INSERTED AFTER SECTION 5 OF THE RENT ACT

1 The following section shall be inserted after section 5 of the Rent Act 1968:—

“5A No protected tenancy in certain cases where landlord's interest belongs to resident landlord.

- (1) Subject to subsection (5) below, a tenancy of a dwelling-house which is granted on or after the commencement date, within the meaning of the Rent Act 1974, shall not be a protected tenancy at any time if—
- (a) the dwelling-house forms part only of a building and that building is not a purpose-built block of flats; and
 - (b) the tenancy was granted by a person who, at the time that he granted it, occupied as his residence another dwelling-house which also forms part of that building ; and
 - (c) subject to subsection (2) below, at all times since the tenancy was granted, the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which also formed part of that building.
- (2) In determining whether the condition in paragraph (c) of subsection (1) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
- (a) any period of not more than 14 days beginning with the date on which the interest of the landlord under the tenancy becomes vested at law and in equity in an individual who, during that period, does not occupy as his residence another dwelling-house which forms part of the building concerned ;
 - (b) if, within a period falling within paragraph (a) above, the individual concerned notifies the tenant in writing of his intention to occupy as his residence another such dwelling-house as is referred to in that paragraph, the period beginning with the date on which the interest of the landlord under the tenancy becomes vested in that individual as mentioned in that paragraph and ending—
 - (i) at the expiry of the period of 6 months beginning on that date, or
 - (ii) on the date on which that interest ceases to be so vested, or
 - (iii) on the date on which the condition in subsection (1)(c) above again applies,
 whichever is the earlier ; and
 - (c) any period of not more than 12 months beginning with the date on which the interest of the landlord under the tenancy becomes, and during which it remains, vested—

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- (i) in the personal representatives of a deceased person acting in that capacity; or
 - (ii) in trustees as such ; or
 - (iii) by virtue of section 9 of the Administration of Estates Act 1925, in the Probate Judge, within the meaning of that Act.
- (3) During any period when—
- (a) the interest of the landlord under the tenancy referred to in subsection (1) above is vested in trustees as such, and
 - (b) that interest is or, if it is held on trust for sale, the proceeds of its sale are held on trust for any person who occupies as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection,
- the condition in paragraph (c) of that sub-section shall be deemed to be fulfilled and, accordingly, no part of that period shall be disregarded by virtue of subsection (2) above.
- (4) Throughout any period which, by virtue of subsection (2) above, is to be disregarded for the purpose of determining whether the condition in subsection (1)(c) above is fulfilled with respect to a tenancy, no order shall be made for possession of the dwelling-house subject to that tenancy, other than an order which might be made if that tenancy were or, as the case may be, had been a regulated tenancy.
- (5) This section does not apply to a tenancy of a dwelling-house which forms part of a building if—
- (a) the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building, or
 - (b) the tenancy is a tenancy for a term of years certain and is granted to a person who, immediately before it was granted, was the tenant under an earlier tenancy of that dwelling-house or any other dwelling-house in that building and, by virtue of this section, that earlier tenancy was not a protected tenancy,
- and for the purposes of this subsection a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term.
- (6) For the purposes of this section a building is a purpose-built block of flats if as constructed it contained, and it contains, two or more flats ; and for this purpose "flat" means a dwelling-house which—
- (a) forms part only of a building ; and
 - (b) is separated horizontally from another dwelling-house which forms part of the same building.
- (7) For the purposes of this section, a person shall be treated as occupying a dwelling-house as his residence if, so far as the nature of the case allows, he fulfils the same conditions as, by virtue of section 3(2) above, are required to be fulfilled by a statutory tenant of a dwelling-house.”

2 The following section shall be inserted after section 5 of the Rent (Scotland) Act 1971 :—

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“5A No protected tenancy where landlord's interest belongs to resident landlord.

- (1) Subject to subsection (6) below, a tenancy of a dwelling-house which is granted on or after the commencement date within the meaning of the Rent Act 1974 shall not be a protected tenancy at any time if—
 - (a) the dwelling-house forms part only of a building and that building is not a purpose-built block of flats ; and
 - (b) subject to subsection (2) below, the tenancy was granted by a person who, at the time when he granted it, occupied as his residence another dwelling-house which also forms part of that building ; and
 - (c) subject to subsection (3) below, at all times since the tenancy was granted, the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which also formed part of that building.
- (2) The condition in paragraph (b) of subsection (1) above shall be deemed to be fulfilled if the tenancy was granted by trustees and, at the time when the tenancy was granted, the interest of the landlord under the tenancy thereby created was held on trust for a person who was entitled to the liferent or to the fee or a share of the fee of that interest and who occupied as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection.
- (3) In determining whether the condition in paragraph (c) of subsection (1) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
 - (a) any period of not more than 14 days beginning with the date of the conveyance of the interest of the landlord under the tenancy to an individual who, during that period, does not occupy as his residence another dwelling-house which forms part of the building concerned ;
 - (b) if, within a period falling within paragraph (a) above, the individual concerned notifies the tenant in writing of his intention to occupy as his residence another such dwelling-house as is referred to in that paragraph, the period beginning with the date of the conveyance mentioned in that paragraph and ending—
 - (i) at the expiry of the period of 6 months beginning on that date, or
 - (ii) on the date on which the interest of the landlord under the tenancy ceases to be held by that individual, or
 - (iii) on the date on which the condition in subsection (1)(c) above again applies,whichever is the earlier; and
 - (c) any period of not more than 12 months beginning with the date of death of the landlord under the tenancy during which the interest of the landlord under the tenancy is vested in his executor.
- (4) Throughout any period which, by virtue of subsection (3) above, falls to be disregarded for the purpose of determining whether the condition in subsection (1)(c) above is fulfilled with respect to a tenancy, no order for

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possession of the dwelling-house subject to that tenancy shall be made, other than an order which might be made if that tenancy were or, as the case may be, had been a regulated tenancy.

- (5) During any period when—
- (a) the interest of the landlord under the tenancy referred to in subsection (1) above is vested in trustees; and
 - (b) that interest is held on trust for a person who is entitled to the liferent or to the fee or a share of the fee of that interest and who occupies as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection,
- the condition in paragraph (c) of that subsection shall be deemed to be fulfilled and, accordingly, no part of that period shall be disregarded by virtue of subsection (3) above.
- (6) This section does not apply to a tenancy of a dwelling-house which forms part of a building if the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building.
- (7) For the purposes of this section, a person shall be treated as occupying a dwelling-house as his residence if, so far as the nature of the case allows, he would be regarded as retaining possession of the dwelling-house for the purposes of paragraph (a) of section 3(1) above if he were such a person as is referred to in that paragraph.
- (8) For the purposes of this section—
- (a) a building is a purpose-built block of flats if, as constructed it contained, and it contains, two or more flats, and for this purpose " flat" has the same meaning as in section 208(1) of the Housing (Scotland) Act 1966 ;
 - (b) " conveyance " includes the grant of a tenancy and any other conveyance or transfer other than upon death;
 - (c) " the date of the conveyance " means the date on which the conveyance was granted, delivered or otherwise made effective."

PART II

AMENDMENTS OF PART IX OF RENT ACT 1968

3 In section 101 of the Rent Act 1968 (provisions where tenant shares accommodation with landlord) in paragraph (c) after the words " paragraph (b) above " there shall be inserted the words " or by reason of those circumstances and the operation of section 5A of this Act " .

4 After section 102 of that Act there shall be inserted the following section:—

“102A Application of Part VI to tenancies falling within section 5A.

- (1) If and so long as a tenancy is, by virtue only of section 5A of this Act, precluded from being a protected tenancy, it shall be treated for the purposes of Part VI of this Act as a contract to which that Part applies, notwithstanding that the rent may not include payment for the use of furniture or for services.

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- (2) In any case where—
- (a) a tenancy which, by virtue only of section 5A of this Act, was precluded from being a protected tenancy ceases to be so precluded and accordingly becomes a protected tenancy, and
 - (b) before it became a protected tenancy a rent was registered for the dwelling concerned under Part VI of this Act,
- the amount which is so registered shall be deemed to be registered under Part IV of this Act as the rent for the dwelling-house which is let on that tenancy, and that registration shall be deemed to take effect on the day the tenancy becomes a protected tenancy.
- (3) Section 44(3) of this Act shall not apply to an application for the registration under Part IV of this Act of a rent different from that which is deemed to be registered as mentioned in subsection (2) above.
- (4) The reference in section 45(1)(b) of this Act to a rent being registered for a dwelling-house does not include a rent which is deemed to be registered as mentioned in subsection (2) above.
- (5) If, immediately before a tenancy became a protected tenancy as mentioned in subsection (2)(a) above, the rates in respect of the dwelling concerned were borne as mentioned in subsection (2A) of section 74 of this Act and the fact that they were so borne was noted as required by that subsection, then, in the application of Part IV of this Act in relation to the protected tenancy, section 47(2) of this Act shall be deemed to apply.
- (6) If, in a case where a tenancy becomes a protected tenancy as mentioned in subsection (2)(a) above,—
- (a) a notice to quit had been served in respect of the dwelling concerned before the date on which the tenancy became a protected tenancy, and
 - (b) the period at the end of which that notice to quit takes effect had, before that date, been extended under Part VI of this Act, and
 - (c) that period has not expired before that date,
- the notice to quit shall take effect on the day following that date (whenever it would otherwise take effect) and, accordingly, on that day the protected tenancy shall become a statutory tenancy.”

PART III

AMENDMENTS OF PART X OF RENT (SCOTLAND) ACT 1971

- 5 In section 118 of the Rent (Scotland) Act 1971 (provisions where tenant shares accommodation with landlord) in paragraph (c) after the words " paragraph (b) above " there shall be inserted the words " or by reason of those circumstances and the operation of section 5A of this Act ".
- 6 After section 119 of that Act there shall be inserted the following section:—

“119A Application of Part VII to tenancies falling within section 5A.

- (1) If and so long as a tenancy is, by virtue only of section 5A of this Act, precluded from being a protected tenancy, it shall be treated for the purposes of Part VII of this Act as a contract to which that Part applies, notwithstanding that the rent may not include payment for the use of furniture or for services.
- (2) In any case where—
 - (a) a tenancy which, by virtue only of section 5A of this Act, was precluded from being a protected tenancy ceases to be so precluded and accordingly becomes a protected tenancy, and
 - (b) before it became a protected tenancy a rent was registered for the dwelling-house concerned under Part VII of this Act,
the amount which is so registered shall be deemed to be registered under Part IV of this Act as the rent for the dwelling-house which is let on that tenancy, and that registration shall be deemed to take effect on the day the tenancy becomes a protected tenancy.
- (3) Section 40(3) of this Act shall not apply to an application for the registration under Part IV of this Act of a rent different from that which is deemed to be registered as mentioned in subsection (2) above.
- (4) The reference in section 41(1)(b) of this Act to a rent being registered for a dwelling-house does not include a rent which is deemed to be registered as mentioned in subsection (2) above.
- (5) If, immediately before a tenancy became a protected tenancy as mentioned in subsection (2)(a) above, the rates in respect of the dwelling-house were borne as mentioned in subsection (2A) of section 89 of this Act and the fact that they were so borne was noted as required by that subsection, then, in the application of Part IV of this Act in relation to the protected tenancy, section 43(2) of this Act shall be deemed to apply.
- (6) If, in a case where a tenancy becomes a protected tenancy as mentioned in subsection (2)(a) above,—
 - (a) a notice to quit had been served in respect of the dwelling-house concerned before the date on which the tenancy became a protected tenancy, and
 - (b) the period at the end of which that notice to quit takes effect had, before that date, been extended under Part VII of this Act, and
 - (c) that period has not expired before that date,
the notice to quit shall take effect on the day following that date (whenever it would otherwise take effect) and, accordingly, on that day the protected tenancy shall become a statutory tenancy.”

SCHEDULE 3

Section 16(1).

TRANSITIONAL PROVISIONS

- 1 (1) In any case where—

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

- (a) before the commencement date a dwelling was subject to a tenancy which is a furnished letting, and
- (b) the dwelling forms part only of a building, and that building is not a purpose-built block of flats within the meaning of section 5A of the Rent Act 1968, and
- (c) on that date the interest of the lessor, within the meaning of the relevant Part of the Rent Act, under the furnished letting—
 - (i) belongs to a person Who occupies as his residence another dwelling which also forms part of that building, or
 - (ii) is vested in trustees as such and is or, if it is held on trust for sale, the proceeds of its sale are held on trust for a person who occupies as his residence another dwelling which also forms part of that building, and
- (d) apart from this paragraph the furnished letting would, on the commencement date, become a protected furnished tenancy,

the Rent Act shall apply, subject to sub-paragraph (2) below, as if the tenancy had been granted on the commencement date and as if the condition in paragraph (b) of section 5A(1) of the Rent Act 1968 were fulfilled in relation to the grant of the tenancy.

- (2) In the application of the Rent Act 1968 to a tenancy by virtue of this paragraph—
 - (a) subsection (5) of section 5A shall be omitted ; and
 - (b) in section 102A any reference to section 5A of that Act shall be construed as including a reference to this paragraph.
- (3) In any case where paragraphs (a), (b) and (d) of sub-paragraph (1) above apply but on the commencement date the interest referred to in paragraph (c) of that sub-paragraph is vested—
 - (a) in the personal representatives of a deceased person acting in that capacity, or
 - (b) by virtue of section 9 of the Administration of Estates Act 1925, in the Probate Judge, within the meaning of that Act, or
 - (c) in trustees as such,

then, if the deceased immediately before his death or, as the case may be, the settlor immediately before the creation of the trust occupied as his residence another dwelling which also formed part of the building referred to in paragraph (b) of sub-paragraph (1) above, that sub-paragraph shall apply as if the condition in paragraph (c) thereof were fulfilled.
- (4) In the application of subsection (2)(c) of section 5A of the Rent Act 1968 in a case falling within sub-paragraph (3) above, any period before the commencement date during which the interest of the landlord is vested as mentioned in that subsection shall be disregarded in calculating the period of 12 months specified therein.

- 2 (1) In any case where—
 - (a) before the commencement date a dwelling-house was subject to a tenancy which is a furnished letting ; and
 - (b) the dwelling-house forms part only of a building and that building is not a purpose-built block of flats within the meaning of section 5A of the Act of 1971 ; and
 - (c) on that date the interest of the lessor, within the meaning of Part VII of that Act, under the furnished letting—

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

- (i) belongs to a person who occupies as his residence another dwelling-house which also forms part of that building, or
 - (ii) is vested in trustees and is held on trust for a person who is entitled to the life interest or to the fee or a share of the fee of that interest and who occupies as his residence a dwelling-house which forms part of that building; and
 - (d) apart from this paragraph the furnished letting would, on the commencement date, become a protected furnished tenancy,
the Act of 1971 shall apply, subject to sub-paragraph (2) below, as if the tenancy had been granted on the commencement date and as if the condition in paragraph (b) of section 5A(1) of that Act were fulfilled in relation to the grant of the tenancy.
- (2) In the application of the Act of 1971 to a tenancy by virtue of this paragraph—
- (a) subsection (6) of section 5A shall be omitted ; and
 - (b) in section 119A any reference to section 5A shall be construed as including a reference to this paragraph.
- (3) In any case where paragraphs (a), (b) and (d) of sub-paragraph (1) above apply but on the commencement date the interest of the lessor under the furnished letting is vested in the executor of a deceased person, then, if that deceased person immediately before his death occupied as his residence another dwelling-house which also formed part of the building referred to in paragraph (b) of sub-paragraph (1) above, that sub-paragraph shall apply as if the condition in paragraph (c) thereof were fulfilled.
- (4) In the application of subsection (3)(c) of section 5A of the Act of 1971, in a case falling within sub-paragraph (3) above, any period before the commencement date during which the interest of the lessor is vested in the executor as mentioned in that subsection shall be disregarded in calculating the period of 12 months specified in that subsection.
- (5) In this paragraph " the Act of 1971 " means the Rent (Scotland) Act 1971.
- 3 (1) This paragraph applies where the tenancy of a dwelling-house has come to an end before the commencement date and, if it had come to an end after that date, it would have then been a protected furnished tenancy.
- (2) No order for possession of the dwelling-house shall be made which would not be made if the tenancy had been a protected furnished tenancy at the time it came to an end.
- (3) Where a court has made an order for possession of the dwelling-house before the commencement date but the order has not been executed, the court, if of opinion that the order would not have been made if the tenancy had been a protected furnished tenancy when it came to an end, may, on the application of the person against whom it was made, rescind or vary it in such manner as the court thinks fit for the purpose of giving effect to section 1 of this Act.
- (4) If the tenant under the tenancy which has come to an end duly retains possession of the dwelling-house on the commencement date without an order for possession having been made or after the rescission of such an order, he shall be deemed to do so as a statutory tenant under a regulated tenancy and, subject to sub-paragraph (8) below, as a person who became the statutory tenant on the termination of a protected tenancy under which he was the tenant; and, subject to sub-paragraphs (6) and (7) below, the tenancy referred to in sub-paragraph (1) above shall be treated, in relation to his statutory tenancy,—

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

- (a) as the original contract of tenancy for the purposes of section 12 of the Rent Act (terms and conditions of statutory tenancies) ; and
 - (b) as the previous contractual tenancy for the purposes of paragraph 2 of Part III of Schedule 3 to the Rent Act.
- (5) In any case where—
- (a) immediately before the commencement date a rent is registered for a dwelling under the relevant Part of the Rent Act, and
 - (b) on the commencement date a person becomes a statutory tenant of that dwelling by virtue of sub-paragraph (4) above,
- the amount which is so registered under the relevant Part of the Rent Act shall be deemed to be registered under Part IV of that Act as the rent for that dwelling, and that registration shall be deemed to take effect on the commencement date.
- (6) In England and Wales the High Court or the county court may by order vary all or any of the terms of the statutory tenancy imposed by sub-paragraph (4) above in any way appearing to the court to be just and equitable, and whether or not in a way authorised by the provisions of sections 23 and 24 of the Rent Act 1968.
- (7) In Scotland the sheriff may by order vary all or any of the terms of the statutory tenancy imposed by sub-paragraph (4) above in any way appearing to him to be just and equitable, and whether or not in a way authorised by the provisions of sections 22 and 23 of the Rent (Scotland) Act 1971.
- (8) If on the commencement date the dwelling-house is occupied by a person who would, if the tenancy had been a protected tenancy, have been the " first successor " as defined in paragraph 4 of Schedule 1 to the Rent Act—
- (a) an application under sub-paragraph (3) above may be made by that person, and
 - (b) sub-paragraph (4) above shall apply where that person retains possession as it applies where the tenant retains possession, except that he shall be the first successor, as so defined.
- 4 (1) The provisions of this paragraph shall have effect with respect to the period beginning on the commencement date and ending on the day appointed for the purposes of subsection (1) of section 11 of this Act, and in the following provisions of this paragraph that period is referred to as " the interim period " .
- (2) During the interim period every allowance scheme (including an allowance scheme which is the model scheme, as defined in section 20(7) of the Housing Finance Act 1972) shall be deemed to be varied to such extent as is necessary to take account of the provisions of subsections (2) to (5) of section 11 of this Act and of the repeals of provisions of Part II of that Act contained in Part I of Schedule 4 to this Act.
- (3) No account shall be taken for the purposes of section 24 of the Housing Finance Act 1972 (publicity for schemes) of any deemed variation of a scheme which is effected by sub-paragraph (2) above.
- (4) Where, during the interim period, an authority vary their allowance scheme to take account of the provisions of the subsections and of the repeals referred to in sub-paragraph (2) above, the variation shall not take effect until the day appointed as mentioned in sub-paragraph (1) above.
- (5) At any time within the interim period an authority may vary their allowance scheme, with effect from the day appointed as mentioned in sub-paragraph (1) above, to take

account of the modifications of Part II of the Housing Finance Act 1972 effected on and after that day by subsection (1) of section 11 of, and Part II of Schedule 4 to, this Act.

- (6) In this paragraph " allowance scheme " and " authority " have the same meanings as in Part II of the Housing Finance Act 1972.
- 5 Subsection (3) of section 20 of the Housing Finance Act 1972 (proposals for regulations varying Schedules 3 and 4 to that Act to be referred to the Advisory Committee on Rent Rebates and Rent Allowances) shall not apply to regulations which are—
- (a) made within the period of three months beginning on the commencement date ; and
 - (b) expressed to be made for the purpose of making in either of those Schedules variations consequential upon provision made by virtue of paragraph (c) of section 25(3) of that Act (as set out in section 11(7) of this Act).
- 6 (1) The provisions of this paragraph shall have effect with respect to the period beginning on the commencement date and ending on the day appointed for the purposes of subsection (1) of section 12 of this Act, and in the following provisions of this paragraph that period is referred to as " the interim period ".
- (2) During the interim period every allowance scheme (including an allowance scheme which is the model scheme as denned in section 17(5) of the Act of 1972) shall be deemed to be varied to such extent as is necessary to take account of the provisions of subsections (2) to (4) of section 12 of this Act.
- (3) No account shall be taken for the purposes of section 19(2) of the Act of 1972 (publicity for allowance schemes) of any deemed variation of a scheme which is effected by sub-paragraph (2) above.
- (4) Where, during the interim period, an authority vary their allowance scheme to take account of the provisions of the subsections referred to in sub-paragraph (2) above, the variation shall not take effect until the day appointed as mentioned in sub-paragraph (1) above.
- (5) At any time within the interim period an authority may vary, with effect from the day appointed as mentioned in sub-paragraph (1) above, their allowance scheme to take account of the modifications of section 16 of the Act of 1972 effected on and after that day by subsection (1) of section 12 of this Act.
- (6) In this paragraph " the Act of 1972" means the Housing (Financial Provisions) (Scotland) Act 1972; and " allowance scheme " and " authority " have the same meanings as in Part II of the Act of 1972.

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

SCHEDULE 4

Section 16(2).

ENACTMENTS REPEALED

PART I

REPEALS TAKING EFFECT ON COMMENCEMENT

Chapter	Short Title	Extent of Repeal
1968 c. 23.	The Rent Act 1968.	<p>In section 2(3) the words "or the use of furniture", "or use of furniture" and "or the use".</p> <p>Section 73(3).</p> <p>In section 75, in subsection (1) the words "on the ground of change of circumstances" and subsection (2).</p> <p>Section 78(1)(c).</p> <p>In Schedule 3, in Case 9, the word "also".</p> <p>In Schedule 7, in paragraph 1 the word "and" at the end of sub-paragraph (b).</p>
1971 c. 28.	The Rent (Scotland) Act 1971.	<p>In section 2(3) the words "or the use of furniture", "or use of furniture" and "or the use".</p> <p>In section 88(3) the words "or this section as extended by section 90 below".</p> <p>In section 89(2) the words "or that section as extended by section 90 below".</p> <p>In section 90, in subsection (1) the words " on the ground of change of circumstances" and subsection (2).</p> <p>Section 93(1)(c).</p> <p>In Schedule 3, in Case 9, the word "also".</p> <p>In Schedule 7, in paragraph 1 the word "and" at the end of sub-paragraph (b).</p>

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Chapter	Short Title	Extent of Repeal
1972 c. 46.	The Housing (Financial Provisions) (Scotland) Act 1972	In Schedule 3, in paragraph 15 (1) (g) (ii) the words "125 per cent. of".
1972 c. 47.	The Housing Finance Act 1972.	In section 23, in subsection (1) the words "or making orders under section 25(3A) of this Act". In section 25, in subsection (1) the proviso, subsection (3A) and in subsection (4) the words "and orders". Section 89.
1973 c. 6.	The Furnished Lettings (Rent Allowances) Act 1973.	In Schedule 1, paragraphs 17, 19 and 20.

PART II

REPEALS TAKING EFFECT ON DAY APPOINTED UNDER SUBSECTION (1) OF SECTIONS 11 AND 12

Chapter	Short Title	Extent of Repeal
1972 c. 46.	The Housing (Financial Provisions) (Scotland) Act 1972	In section 16, in subsections (3), (5) and (7) the words "being a qualified person within the meaning of subsection (8) of this section", and subsections (8), (9) and (10).
1972 c. 47.	The Housing Finance Act 1972.	In section 19, in subsections (4) and (6) the words "being a qualified person within the meaning of subsection (12) below", in subsection (8A) paragraph (b) and the word "and" immediately preceding it and subsections (12) to (14). In section 23, in subsection (1) the words from "or to the descriptions" to the end of the subsection. In section 24, in subsection (10) the words from "or to a person" to "would be a private tenant"

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Chapter	Short Title	Extent of Repeal
1973 c. 6.	The Furnished Lettings (Rent Allowances) Act 1973.	and in subsection (11) the words from "or for a person" to "would be a private tenant of a dwelling". In Schedule 1, paragraphs 10 and 12.