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## SCHEDULES

### SCHEDULE 1

Sections 2 and 3.

#### STATUTORY TENANCIES

#### PART I

#### STATUTORY TENANTS BY SUCCESSION

##### Modifications etc. (not altering text)

- C1** Sch. 1 Pt. I: by [Housing Act 1988 \(c. 50, SIF 75:1\)](#), **s. 39(3)** it is provided that where s. 39(2) of the 1988 Act does not apply but the person who is the first successor, within the meaning of Part I of Sch. 1 of this Act, dies after the commencement of that 1988 Act, Part I shall have effect subject to the amendments in paras. 5 to 9 of Part I of Sch. 4 of that 1988 Act

- 1 Paragraph 2 . . . <sup>F1</sup> below shall have effect, subject to section 2(3) of this Act, for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Part of this Schedule referred to as “the original tenant”) who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.

##### Textual Amendments

- F1** Words repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), ss. 39(2), 140(2), **Sch. 4 Pt. I para. 1** (in application as mentioned in s. 39(2)), Sch. 18

##### Modifications etc. (not altering text)

- C2** Sch. 1 para. 1 modified (1.10.1997) by 1996 c. 27, ss. 53, 63(4), **Sch. 7 Pt. II para. 8(3)** (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(a)**

- [<sup>F2</sup>2 The surviving spouse]<sup>F3</sup>, or surviving civil partner,] (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.]

- [<sup>F4</sup>(2) For the purposes of this paragraph, a person who was living with the original tenant as if they were a married couple or civil partners is to be treated as the spouse or civil partner of the original tenant.]

- (3) If, immediately after the death of the original tenant, there is, by virtue of subparagraph (2) above, more than one person who fulfils the conditions in subparagraph (1) above, such one of them as may be decided by agreement or, in default

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of agreement, by the county court [<sup>F5</sup>shall for the purposes of this paragraph be [<sup>F6</sup>treated as the tenant's spouse [<sup>F7</sup>or civil partner].]]

#### Textual Amendments

- F2** Sch. 1 para. 2 substituted by [Housing Act 1980 \(c. 51, SIF 61\)](#), **s. 76(1)(4)** in relation to deaths occurring after 28.11.1980
- F3** Words in Sch. 1 para. 2(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(2), **Sch. 8 para. 13(2)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F4** Sch. 1 para. 2(2) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 5(a)**
- F5** Words in Sch. 1 para. 2(3) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(2), **Sch. 8 para. 13(4)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F6** Words in Sch. 1 para. 2(3) substituted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 1 para. 16**
- F7** Words in Sch. 1 para. 2(3) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 5(b)**

#### Modifications etc. (not altering text)

- C3** Sch. 1 para. 2 modified (1.10.1997) by 1996 c. 27, ss. 53, 63(4), **Sch. 7 Pt. II para. 8(3)** (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(a)**

- 3 (1) Where paragraph 2 above does not apply, but a person who was a member of the original tenant's family was residing with him [<sup>F8</sup>in the dwelling-house] at the time of and for the [<sup>F9</sup>period of 2 years] immediately before his death then, after his death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the county court, shall [<sup>F10</sup>—
- (a) in the case of a dwelling-house in England,] be [<sup>F11</sup>entitled to an assured tenancy of the dwelling-house by succession][<sup>F12</sup>, or
  - (b) in the case of a dwelling-house in Wales, be entitled to a secure contract of the dwelling-house by succession].

[<sup>F13</sup>(2) If the original tenant died within the period of 18 months beginning on the operative date, then, for the purposes of this paragraph, a person who was residing in the dwelling-house with the original tenant at the time of his death and for the period which began 6 months before the operative date and ended at the time of his death shall be taken to have been residing with the original tenant for the period of 2 years immediately before his death.]

#### Textual Amendments

- F8** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 39(2), **Sch. 4 Pt. I para. 3(a)**(in application as mentioned in s. 39(2))
- F9** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 39(2), **Sch. 4 Pt. I para. 3(b)**(in application as mentioned in s. 39(2))
- F10** Sch. 1 para. 3(1)(a) inserted (18.5.2023) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2023 \(S.I. 2023/550\)](#), regs. 1, **2(4)(a)(i)**
- F11** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 39(2), **Sch. 4 Pt. I para. 3(c)**(in application as mentioned in s. 39(2))

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**F12** Sch. 1 para. 3(1)(b) and word inserted (18.5.2023) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2023 (S.I. 2023/550), regs. 1, 2(4)(a)(ii)

**F13** Sch. 1 Pt. I Para. 3(2) added by Housing Act 1988 (c. 50, SIF 61), s. 39(2), Sch. 4 Pt. I para. 3(d)(in application as mentioned in s. 39(2))

#### Modifications etc. (not altering text)

**C4** Sch. 1 para. 3 modified (1.10.1997) by 1996 c. 27, ss. 53, 63(4), Sch. 7 Pt. II para. 8(3) (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, art. 3(1)(a)

4 A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2 . . . <sup>F14</sup> above is in this Part of this Schedule referred to as “the first successor”.

#### Textual Amendments

**F14** Words repealed by Housing Act 1988 (c. 50, SIF 61), ss. 39(2), 140(2), Sch. 4 Pt. I para. 4(in application as mentioned in s. 39(2)), Sch. 18

5 If, immediately before his death, the first successor was still a statutory tenant, paragraph 6 [<sup>F15</sup>below shall have effect], for the purpose of determining who is [<sup>F16</sup>entitled]<sup>F17</sup>—

- (a) in the case of a dwelling-house in England,] to an assured tenancy of the dwelling-house by succession]<sup>F18</sup>, or
- (b) in the case of a dwelling-house in Wales, to a secure contract of the dwelling-house by succession] after the death of the first successor.

#### Textual Amendments

**F15** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 39(2), Sch. 4 Pt. I para. 5(a)(in application as mentioned in s. 39(2)(3))

**F16** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 39(2), Sch. 4 Pt. I para. 5(b)(in application as mentioned in s. 39(2)(3))

**F17** Sch. 1 para. 5(a) inserted (18.5.2023) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2023 (S.I. 2023/550), regs. 1, 2(4)(b)(i)

**F18** Sch. 1 para. 5(b) and word inserted (18.5.2023) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2023 (S.I. 2023/550), regs. 1, 2(4)(b)(ii)

#### Modifications etc. (not altering text)

**C5** Sch. 1 para. 5 modified (1.10.1997) by 1996 c. 27, ss. 53, 63(4), Sch. 7 Pt. II para. 8(3) (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, art. 3(1)(a)

<sup>F19</sup>6 (1) Where a person who—

- (a) was a member of the original tenant’s family immediately before that tenant’s death, and
- (b) was a member of the first successor’s family immediately before the first successor’s death,

was residing in the dwelling-house with the first successor at the time of, and for the period of 2 years immediately before, the first successor’s death, that person or, if there is more than one such person, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be entitled]<sup>F20</sup>—

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- (i) in the case of a dwelling-house in England,] to an assured tenancy of the dwelling-house by succession [<sup>F21</sup>, or
- (ii) in the case of a dwelling-house in Wales, to a secure contract of the dwelling-house by succession].
- (2) If the first successor died within the period of 18 months beginning on the operative date, then, for the purposes of this paragraph, a person who was residing in the dwelling-house with the first successor at the time of his death and for the period which began 6 months before the operative date and ended at the time of his death shall be taken to have been residing with the first successor for the period of 2 years immediately before his death.]

#### Textual Amendments

- F19** Sch. 1 Pt. 1 para. 6 substituted by virtue of Housing Act 1988 (c. 50, SIF 61), s. 39(2)(3), **Sch. 4 Pt. I para. 6**(with application as mentioned in s. 39(2)(3))
- F20** Sch. 1 para. 6(1)(i) inserted (18.5.2023) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2023 (S.I. 2023/550), regs. 1, **2(4)(c)(i)**
- F21** Sch. 1 para. 6(1)(ii) and word inserted (18.5.2023) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2023 (S.I. 2023/550), regs. 1, **2(4)(c)(ii)**

#### Modifications etc. (not altering text)

- C6** Sch. 1 para. 6 modified (1.10.1997) by 1996 c. 27, ss. 53, 63(4), **Sch. 7 Pt. II para. 8(3)** (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(a)**

7 ..... **F22**

#### Textual Amendments

- F22** Sch. 1 Pt. 1 para. 7 repealed by Housing Act 1988 (c. 50, SIF 61), ss. 39(2)(3), 140(2), **Sch. 4 Pt. I para. 7**(with application as mentioned in s. 39(2)(3)), Sch. 18

8 ..... **F23**

#### Textual Amendments

- F23** Ss. 15(6), 17, 18(3)(4), 24(1)(2), 27–43, 50, 53, 67(6), 70(5), 76, 79(4), 86(5), 91, 92(6)(7), 108–113, 115, 117, 130, 133–135, 141(2), 155(1), Sch. 1 para. 8, Schs. 3, 4, 6, Sch. 7 para. 4, Sch. 10 para. 10, Sch. 11 paras. 13, 14 and 15–25, Sch. 13, Sch. 14 para. 6, Sch. 17 paras. 10, 11, Sch. 19, Sch. 20 paras. 1(6)(7), 4, Schs. 21, 22, Sch. 23 paras. 1, 4(g)–(i), 37, 38 repealed by Housing Act 1980 (c. 51, SIF 61), **Sch. 26**

- 9 Paragraphs 5 to 8 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 4 of the <sup>M1</sup>Requisitioned Houses and Housing (Amendment) Act 1955 or section 20 of the <sup>M2</sup>Rent Act 1965.

#### Marginal Citations

- M1** 1955 c. 24.  
**M2** 1965 c. 75.

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- 10 (1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, “the original tenant” and “the first successor” in this Part of this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—
- (a) if the successor was the first successor, and, immediately before his death he was still the tenant (whether protected or statutory), [<sup>F24</sup>paragraph 6] above shall apply on his death,
  - (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Part of this Schedule.
- (2) Sub-paragraph (1) above applies—
- (a) even if a successor enters into more than one other tenancy of the dwelling-house, and
  - (b) even if both the first successor and the successor on his death enter into other tenancies of the dwelling-house.
- (3) In this paragraph “succession” means the occasion on which a person becomes the statutory tenant of a dwelling-house by virtue of this Part of this Schedule and “successor” shall be construed accordingly.
- (4) This paragraph shall apply as respects a succession which took place before 27th August 1972 if, and only if, the tenancy granted after the succession, or the first of those tenancies, was granted on or after that date, and where it does not apply as respects a succession, no account should be taken of that succession in applying this paragraph as respects any later succession.

#### Textual Amendments

**F24** Words substituted as provided by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 39(2), [Sch. 4 Pt. I para. 8](#) (with application as mentioned in s. 39(2)(3))

- 11 (1) Paragraphs 5 to 8 above do not apply where—
- (a) the tenancy of the original tenant was granted on or after the operative date within the meaning of the <sup>M3</sup>Rent (Agriculture) Act 1976, and
  - (b) both that tenancy and the statutory tenancy of the first successor were tenancies to which section 99 of this Act applies.
- (2) If the tenants under both of the tenancies falling within sub-paragraph (1)(b) above were persons to whom paragraph 7 of Schedule 9 to the <sup>M4</sup>Rent (Agriculture) Act 1976 applies, the reference in sub-paragraph (1)(a) above to the operative date shall be taken as a reference to the date of operation for forestry workers within the meaning of that Act.

#### Marginal Citations

**M3** 1976 c. 80.  
**M4** 1976 c. 80.

[<sup>F25</sup>11A In this Part of this Schedule “the operative date” means the date on which Part I of the Housing Act 1988 came into force.]

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### Textual Amendments

**F25** Sch. 1 Pt. I para. 11A inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 39(2), [Sch. 4 Pt. I para. 9](#) (with application as mentioned in s. 39(2)(3))

## PART II

### RELINQUISHING TENANCIES AND CHANGING TENANTS

#### *Payments demanded by statutory tenants as a condition of giving up possession*

- 12 (1) A statutory tenant of a dwelling-house who, as a condition of giving up possession of the dwelling-house, asks for or receives the payment of any sum, or the giving of any other consideration, by any person other than the landlord, shall be guilty of an offence.
- (2) Where a statutory tenant of a dwelling-house requires that furniture or other articles shall be purchased as a condition of his giving up possession of the dwelling-house, the price demanded shall, at the request of the person on whom the demand is made, be stated in writing, and if the price exceeds the reasonable price of the articles the excess shall be treated, for the purposes of sub-paragraph (1) above, as a sum asked to be paid as a condition of giving up possession.
- (3) A person guilty of an offence under this paragraph shall be liable to a fine not exceeding [<sup>F26</sup>level 3 on the standard scale].
- (4) The court by which a person is convicted of an offence under this paragraph may order the payment—
- (a) to the person who made any such payment, or gave any such consideration, as is referred to in sub-paragraph (1) above, of the amount of that payment or the value of that consideration, or
  - (b) to the person who paid any such price as is referred to in sub-paragraph (2) above, of the amount by which the price paid exceeds the reasonable price.

### Textual Amendments

**F26** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46

#### *Change of statutory tenant by agreement*

- 13 (1) Where it is so agreed in writing between a statutory tenant (“the outgoing tenant”) and a person proposing to occupy the dwelling (“the incoming tenant”), the incoming tenant shall be deemed to be the statutory tenant of the dwelling as from such date as may be specified in the agreement (“the transfer date”).
- (2) Such an agreement shall not have effect unless the landlord is a party thereto, and, if the consent of any superior landlord would have been required to an assignment of the previous contractual tenancy, the agreement shall not have effect unless the superior landlord is a party thereto.

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- (3) If the outgoing tenant is the statutory tenant by virtue of his previous protected tenancy, then, subject to sub-paragraph (6) below, this Act shall have effect, on and after the transfer date, as if the incoming tenant had been a protected tenant and had become the statutory tenant by virtue of his previous protected tenancy.
- (4) Subject to sub-paragraphs (5) and (6) below, if the outgoing tenant is a statutory tenant by succession, then, on and after the transfer date—
  - (a) this Act shall have effect as if the incoming tenant were a statutory tenant by succession, and
  - (b) the incoming tenant shall be deemed to have become a statutory tenant by virtue of that paragraph of Part I of this Schedule by virtue of which the outgoing tenant became (or is deemed to have become) a statutory tenant.
- (5) If the outgoing tenant is a statutory tenant by succession, the agreement may provide that, notwithstanding anything in sub-paragraph (4) above, on and after the transfer date, this Act shall have effect, subject to sub-paragraph (6) below, as if the incoming tenant had been a protected tenant and had become the statutory tenant by virtue of his previous protected tenancy.
- (6) Unless the incoming tenant is deemed, by virtue of sub-paragraph (4)(b) above, to have become a statutory tenant by virtue of paragraph 6 or 7 of Part I of this Schedule, paragraphs 5 to 7 of that Part shall not apply where a person has become a statutory tenant by virtue of this paragraph.
- (7) In this paragraph “the dwelling” means the aggregate of the premises comprised in the statutory tenancy of the outgoing tenant.

*No pecuniary consideration to be required on change of tenant under paragraph 13*

- 14 (1) Any person who requires the payment of any pecuniary consideration for entering into such an agreement as is referred to in paragraph 13(1) above shall be liable to a fine not exceeding [<sup>F27</sup>level 3 on the standard scale].
- (2) The court by which a person is convicted of an offence under sub-paragraph (1) above may order the amount of the payment to be repaid by the person to whom it was paid.
- (3) Without prejudice to sub-paragraph (2) above, the amount of any such payment as is referred to in sub-paragraph (1) above shall be recoverable by the person by whom it was made either by proceedings for its recovery or, if it was made to the landlord by a person liable to pay rent to the landlord, by deduction from any rent so payable.
- (4) Notwithstanding anything in sub-paragraph (1) above, if apart from this paragraph he would be entitled to do so, the outgoing tenant may require the payment by the incoming tenant—
  - (a) of so much of any outgoings discharged by the outgoing tenant as is referable to any period after the transfer date;
  - (b) of a sum not exceeding the amount of any expenditure reasonably incurred by the outgoing tenant in carrying out any structural alteration of the dwelling or in providing or improving fixtures therein, being fixtures which, as against the landlord, the outgoing tenant is not entitled to remove;
  - (c) where the outgoing tenant became a tenant of the dwelling by virtue of an assignment of the previous protected tenancy, of a sum not exceeding any reasonable amount paid by him to his assignor in respect of expenditure incurred by the assignor, or by any previous assignor of the tenancy, in

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carrying out any such alteration or in providing or improving any such fixtures as are mentioned in paragraph (b) above; or

- (d) where part of the dwelling is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the incoming tenant in connection with his becoming a statutory tenant of the dwelling or accruing to him in consequence thereof.

- (5) In this paragraph “outgoing tenant”, “incoming tenant”, “the transfer date” and “the dwelling” have the same meanings as in paragraph 13 above.

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**Textual Amendments**

**F27** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**



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