

SCHEDULES

SCHEDULE 17

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

GENERAL AMENDMENTS

The Housing (Scotland) Act 1988

- 88 In section 36 of that Act (damages for unlawful eviction)—
- (a) in subsection (6), for the words “proceedings are begun to enforce the liability” there shall be substituted the words “the date on which the proceedings to enforce the liability are finally decided”; and
 - (b) after subsection (6) there shall be inserted the following subsections—
 - “(6A) For the purposes of subsection (6)(a) above, proceedings to enforce a liability are finally decided—
 - (a) if no appeal may be made against the decision in these proceedings;
 - (b) if an appeal may be made against the decision with leave and the time limit for applications for leave expires and either no application has been made or leave has been refused;
 - (c) if leave to appeal against the decision is granted or is not required and no appeal is made within the time limit for appeals; or
 - (d) if an appeal is made but is abandoned before it is determined.
 - (6B) If, in proceedings to enforce a liability arising by virtue of subsection (3) above, it appears to the court—
 - (a) that, prior to the event which gave rise to the liability, the conduct of the former residential occupier or any person living with him in the premises concerned was such that it is reasonable to mitigate the damages for which the landlord would otherwise be liable, or
 - (b) that, before the proceedings were begun, the landlord offered to reinstate the former residential occupier in the premises in question and either it was unreasonable of the former residential occupier to refuse that offer or, if he had obtained alternative accommodation before the offer was made, it would have been unreasonable of him to refuse that offer if he had not obtained that accommodation,

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the court may reduce the amount of damages which would otherwise be payable to such amount as it thinks appropriate.”.