

Status: Point in time view as at 17/12/2009.

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SCHEDULES

SCHEDULE 17

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

GENERAL AMENDMENTS

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

1 In section 4 of the ^{M1}Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (recovery of possession of dwelling-houses in default of payment of rent precluded in certain cases) after subsection (2) there shall be inserted the following subsection—

“(2A) For the purposes of the foregoing provisions of this Act, a judgment or order for the recovery of possession of a dwelling-house let on an assured tenancy within the meaning of Part I of the Housing Act 1988 shall be regarded as a judgment or order for the recovery of possession in default of payment of rent if the judgment or order was made on any of Grounds 8, 10 and 11 in Schedule 2 to that Act and not on any other ground.”

Marginal Citations

M1 1951 c. 65.

2 For section 16 of that Act (protection of tenure of rented premises by extension of Rent Acts), as it applies otherwise than to Scotland, there shall be substituted the following section—

“16 Protection of tenure of certain rented premises by extension of Housing Act 1988.

- (1) Subject to subsection (2) of section 14 of this Act and subsection (3) below, if at any time during a service man’s period of residence protection—
- (a) a tenancy qualifying for protection which is a fixed term tenancy ends without being continued or renewed by agreement (whether on the same or different terms and conditions), and
 - (b) by reason only of such circumstances as are mentioned in subsection (4) below, on the ending of that tenancy no statutory periodic tenancy of the rented family residence would arise, apart from the provisions of this section,

Chapter I of Part I of the Housing Act 1988 shall, during the remainder of the period of protection, apply in relation to the rented family residence as if

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those circumstances did not exist and had not existed immediately before the ending of that tenancy and, accordingly, as if on the ending of that tenancy there arose a statutory periodic tenancy which is an assured tenancy during the remainder of that period.

- (2) Subject to subsection (2) of section 14 of this Act and subsection (3) below, if at any time during a service man's period of residence protection—
- (a) a tenancy qualifying for protection which is a periodic tenancy would come to an end, apart from the provisions of this section, and
 - (b) by reason only of such circumstances as are mentioned in subsection (4) below that tenancy is not an assured tenancy, and
 - (c) if that tenancy had been an assured tenancy, it would not have come to an end at that time,

Chapter I of Part I of the Housing Act 1988 shall, during the remainder of the period of protection, apply in relation to the rented family residence as if those circumstances did not exist and, accordingly, as if the tenancy had become an assured tenancy immediately before it would otherwise have come to an end.

- (3) Neither subsection (1) nor subsection (2) above applies if, on the ending of the tenancy qualifying for protection, a statutory tenancy arises.
- (4) The circumstances referred to in subsections (1) and (2) above are any one or more of the following, that is to say,—
- (a) that the tenancy was entered into before, or pursuant to a contract made before, Part I of the Housing Act 1988 came into force;
 - (b) that the rateable value (as defined for the purposes of that Act) of the premises which are the rented family residence, or of a property of which those premises form part, exceeded the relevant limit specified in paragraph 2 of Schedule 1 to that Act;
 - (c) that the circumstances mentioned in paragraph 3 or paragraph 6 of that Schedule applied with respect to the tenancy qualifying for protection; and
 - (d) that the reversion immediately expectant on the tenancy qualifying for protection belongs to any of the bodies specified in paragraph 12 of that Schedule.”

- 3 For the said section 16, as it applies to Scotland, there shall be substituted the following section—

“16 Protection of tenure of certain rented premises by extension of Housing (Scotland) Act 1988.

- (1) Subject to subsection (2) of section 14 of this Act and subsection (3) below, if at any time during a service man's period of residence protection—
- (a) a tenancy qualifying for protection ends without being continued or renewed by agreement (whether on the same or different terms and conditions), and
 - (b) by reason only of such circumstances as are mentioned in subsection (4) below, on the ending of that tenancy no statutory tenancy of the rented family residence would arise, apart from the provisions of this section,

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sections 12 to 31 of the Housing (Scotland) Act 1988 shall, during the remainder of the period of protection, apply in relation to the rented family residence as if those circumstances did not exist and had not existed immediately before the ending of that tenancy and, accordingly, as if on the ending of that tenancy there arose a statutory assured tenancy during the remainder of that period.

- (2) Subject to subsection (2) of section 14 of this Act and subsection (3) below, if at any time during a service man's period of residence protection—
- (a) a tenancy qualifying for protection would come to an end, apart from the provisions of this section,
 - (b) by reason only of such circumstances as are mentioned in subsection (4) below that tenancy is not an assured tenancy, and
 - (c) if that tenancy had been an assured tenancy, it would not have come to an end at that time,

sections 12 to 31 of the Housing (Scotland) Act 1988 shall, during the remainder of the period of protection, apply in relation to the rented family residence as if those circumstances did not exist and, accordingly, as if the tenancy had become an assured tenancy immediately before it would otherwise have come to an end.

- (3) Neither subsection (1) nor subsection (2) above applies if, on the ending of the tenancy qualifying for protection, a statutory tenancy arises.
- (4) The circumstances referred to in subsections (1) and (2) above are one or more of the following, that is to say—
- (a) that the circumstances mentioned in paragraph 2 of Schedule 4 to the Housing (Scotland) Act 1988 applied with respect to the tenancy qualifying for protection;
 - (b) that the circumstances mentioned in paragraph 5 of that Schedule applied with respect to the tenancy qualifying for protection; and
 - (c) that the reversion immediately expectant on the tenancy qualifying for protection belongs to any of the bodies specified in paragraph 11 of that Schedule.”

- 4 (1) Section 17 of that Act (provisions in case of rented premises which include accommodation shared otherwise than with landlord), as it applies otherwise than to Scotland, shall be amended in accordance with this paragraph.

(2) In subsection (1)—

- (a) after the words “qualifying for protection” there shall be inserted “ which is a fixed term tenancy ”;
- (b) in paragraph (b) for the words from “subsection (2)” to “1977” there shall be substituted “ section 16(4) above, subsection (1) of section 3 of the Housing Act 1988 ”;
- (c) for the words “said section 22” there shall be substituted “ “said section 3 ”; and
- (d) at the end there shall be added “ “and, accordingly, as if on the ending of the tenancy there arose a statutory periodic tenancy which is an assured tenancy during the remainder of that period ”.

(3) For subsection (2) there shall be substituted the following subsections—

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- “(2) Where, at any time during a service man’s period of residence protection—
- (a) a tenancy qualifying for protection which is a periodic tenancy would come to an end, apart from the provisions of this section and section 16 above, and
 - (b) paragraphs (a) and (b) of subsection (1) above apply,
- section 3 of the Housing Act 1988 shall, during the remainder of the period of protection, apply in relation to the separate accommodation as if the circumstances referred to in subsection (1)(b) above did not exist and, accordingly, as if the tenancy had become an assured tenancy immediately before it would otherwise have come to an end.
- (3) Neither subsection (1) nor subsection (2) above applies if, on the ending of the tenancy qualifying for protection, a statutory tenancy arises.”
- 5 (1) The said section 17, as it applies to Scotland, shall be amended in accordance with this paragraph.
- (2) In subsection (1)—
- (a) in paragraph (b) for the words from “subsection (2)” to “1977” there shall be substituted the words ““section 16(4) above, subsection (1) of section 14 of the Housing (Scotland) Act 1988 ”;
 - (b) for the words “said section 97” there shall be substituted the words “ “said section 14 ”; and
 - (c) at the end there shall be added the words “ “and, accordingly, as if on the ending of the tenancy there arose a statutory assured tenancy during the remainder of that period ”.
- (3) For subsection (2) there shall be substituted the following subsections—
- “(2) Where, at any time during a service man’s period of residence protection—
- (a) a tenancy qualifying for protection would come to an end, apart from the provisions of this section and section 16 above, and
 - (b) paragraphs (a) and (b) of subsection (1) above apply,
- section 14 of the Housing (Scotland) Act 1988 shall, during the remainder of the period of protection, apply in relation to the separate accommodation as if the circumstances in subsection (1)(b) above did not exist and, accordingly, as if the tenancy had become an assured tenancy immediately before it would otherwise come to an end.
- (3) Neither subsection (1) nor subsection (2) above applies if, on the ending of the tenancy qualifying for protection, a statutory tenancy arises.”
- 6 (1) In section 18 of that Act (protection of tenure, in connection with employment, under a licence or rent-free letting), in subsection (1), as it applies otherwise than to Scotland,—
- (a) for the words “Part VII of the Rent Act 1977” there shall be substituted “ “Chapter I of Part I of the Housing Act 1988 ”; and
 - (b) for the words “subject to a statutory tenancy within the meaning of the Rent Act 1977” there shall be substituted “ “let on a statutory periodic tenancy which is an assured tenancy ”.
- (2) In that subsection, as it applies to Scotland,—

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- (a) for the words “the Rent (Scotland) Act 1971” there shall be substituted the words “sections 12 to 31 of the Housing (Scotland) Act 1988”, and
 - (b) for the words “subject to a statutory tenancy within the meaning of the Rent (Scotland) Act 1971” there shall be substituted the words “let on a statutory assured tenancy”.
- (3) Subsection (2) of that section shall be omitted.
- (4) In subsection (3) of that section, as it applies otherwise than to Scotland, at the end of paragraph (c) there shall be added “or
- (d) is a dwelling-house which is let on or subject to an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 which is not an assured tenancy.”
- 7 For section 19 of that Act (limitation on application of Rent Acts by virtue of sections 16 to 18), as it applies otherwise than to Scotland, there shall be substituted the following section—

“19 Limitation on application of Housing Act 1988 by virtue of sections 16 to 18.

Where by virtue of sections 16 to 18 above, the operation of Chapter I of Part I of the Housing Act 1988 in relation to any premises is extended or modified, the extension or modification shall not affect—

- (a) any tenancy of those premises other than the statutory periodic tenancy which is deemed to arise or, as the case may be, the tenancy which is for any period deemed to be an assured tenancy by virtue of any of those provisions; or
 - (b) any rent payable in respect of a period beginning before the time when that statutory periodic tenancy was deemed to arise or, as the case may be, before that tenancy became deemed to be an assured tenancy; or
 - (c) anything done or omitted to be done before the time referred to in paragraph (b) above.”
- 8 For the said section 19, as it applies to Scotland, there shall be substituted the following section—

“19 Limitation on application of Housing (Scotland) Act 1988 by virtue of sections 16 to 18.

Where by virtue of sections 16 to 18 above, the operation of sections 12 to 31 of the Housing (Scotland) Act 1988 in relation to any premises is extended or modified, the extension or modification shall not affect—

- (a) any tenancy of those premises other than the statutory assured tenancy which is deemed to arise or, as the case may be, the tenancy which is for any period deemed to be an assured tenancy by virtue of any of those provisions; or
- (b) any rent payable in respect of a period beginning before the time when that statutory assured tenancy was deemed to arise or, as the case may be, before that tenancy became deemed to be an assured tenancy; or

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- (c) anything done or omitted to be done before the time referred to in paragraph (b) above.”
- 9 (1) Section 20 of that Act (modification of Rent Acts as respects occupation by employees), as it applies otherwise than to Scotland, shall be amended in accordance with this paragraph.
- (2) In subsection (1) after the words “Case I in Schedule 15 to the Rent Act 1977” there shall be inserted “ “or Ground 12 in Schedule 2 to the Housing Act 1988 ”.
- (3) In subsection (2) after the words “Case 8 in the said Schedule 15” there shall be inserted “ “or, as the case may be, Ground 16 in the said Schedule 2 ” and for paragraph (b) there shall be substituted the following paragraph—
- “(b) Chapter I of Part I of the Housing Act 1988 applies in relation to the premises as mentioned in section 18(1) of this Act and a dependant or dependants of the service man is or are living in the premises or in part thereof in right of the statutory periodic tenancy or assured tenancy referred to in section 19(a) of this Act”.
- (4) In subsection (3)—
- (a) after the words “the Cases in Part I of the said Schedule 15” there shall be inserted “ “or, as the case may be, Grounds 10 to 16 in Part II of the said Schedule 2 ”; and
- (b) after the words “section 98(1) of the Rent Act 1977” there shall be inserted “ “or, as the case may be, section 7(4) of the Housing Act 1988 ”.
- 10 (1) The said section 20, as it applies to Scotland, shall be amended in accordance with this paragraph.
- (2) In subsection (1) after the words “Case 1 in Schedule 2 to the Rent (Scotland) Act 1984” there shall be inserted the words “ “or Ground 13 in Schedule 5 to the Housing (Scotland) Act 1988 ”.
- (3) In subsection (2) after the words “Case 7 in the said Schedule 2” there shall be inserted the words “ “or, as the case may be, Ground 17 in the said Schedule 5 ” and for paragraph (b) there shall be substituted the following paragraph—
- “(b) sections 12 to 31 of the Housing (Scotland) Act 1988 apply in relation to the premises as mentioned in section 18(1) of this Act and a dependant or dependants of the service man is or are living in the premises or in part thereof in right of the statutory assured tenancy or assured tenancy referred to in paragraph (a) of section 19 of this Act”.
- (4) In subsection (3)—
- (a) after the words “the Cases in Part I of the said Schedule 2” there shall be inserted the words “ “or, as the case may be, Grounds 10 to 17 in Part II of the said Schedule 5 ”; and
- (b) after the words “section 11 of the Rent (Scotland) Act 1984” there shall be inserted the words “ “or, as the case may be, section 18(4) of the Housing (Scotland) Act 1988 ”.
- 11 In section 22 of that Act (facilities for action on behalf of men serving abroad in proceedings as to tenancies), as it applies otherwise than to Scotland, in subsection (1)—

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- (a) after the words “Rent Act 1977” there shall be inserted “ “or under Part I of the Housing Act 1988 ”;
 - (b) for the words “Part V of that Act” there shall be substituted “ “Part V of the Rent Act 1977 or Part I of the Housing Act 1988 ”; and
 - (c) in paragraph (a) after the word “tenancy” there shall be inserted “ “or licence ”.
- 12 In the said section 22, as it applies to Scotland, in subsection (1),—
 - (a) for the words “Part III of the Rent Act 1965 or under the Rent (Scotland) Act 1971” there shall be substituted the words “ “the Rent (Scotland) Act 1984 or under Part II of the Housing (Scotland) Act 1988 ”;
 - (b) for the words “rent tribunal” there shall be substituted the words “ “rent assessment committee ” and for the words “or tribunal” there shall be substituted the words “ “or committee ”;
 - (c) for the words “Part VII of that Act” there shall be substituted the words “ “Part VII of the said Act of 1984 or under Part II of the Housing (Scotland) Act 1988 ”; and
 - (d) in paragraph (a) after the word “tenancy” there shall be inserted the words “ “or licence ”.
- 13 (1) Section 23 of that Act (interpretation of Part II), as it applies otherwise than to Scotland, shall be amended in accordance with this paragraph.
 - (2) In subsection (1)—
 - (a) after the definition of “agricultural land” there shall be inserted—

“ “assured tenancy” has the same meaning as in Part I of the Housing Act 1988”;
 - (b) after the definition of “dependant” there shall be inserted—

“ “fixed term tenancy” means any tenancy other than a periodic tenancy”;
 - (c) for the definition of “landlord” and “tenant” there shall be substituted—

“in relation to a statutory tenancy or to a provision of the Rent Act 1977 “landlord” and “tenant” have the same meaning as in that Act but, subject to that, those expressions have the same meaning as in Part I of the Housing Act 1988”; and
 - (d) after the definition of “relevant police authority” there shall be inserted—

“ “statutory periodic tenancy” has the same meaning as in Part I of the Housing Act 1988”.
 - (3) At the end of subsection (1) there shall be inserted the following subsection—

“(1A) Any reference in this Part of this Act to Chapter I of Part I of the Housing Act 1988 includes a reference to the General Provisions of Chapter VI of that Part, so far as applicable to Chapter I.”
 - (4) In subsection (3) after the words “Rent Act 1977” there shall be inserted “ “or Chapter I of Part I of the Housing Act 1988 ”.
- 14 (1) The said section 23, as it applies to Scotland, shall be amended in accordance with this paragraph.
 - (2) In subsection (1)—
 - (a) after the definition of “agricultural land” there shall be inserted—

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- “assured tenancy” and “statutory assured tenancy” have the same meaning as in Part II of the Housing (Scotland) Act 1988”;
- (b) for the definition of “landlord” and “tenant” there shall be substituted—
- “in relation to a statutory tenancy or to a provision of the Rent (Scotland) Act 1984 “landlord” and “tenant” have the same meaning as in that Act but, subject to that, those expressions have the same meaning as in Part II of the Housing (Scotland) Act 1988”.
- (3) At the end of subsection (1) there shall be inserted the following subsection—
- “(1A) Any reference in this Part of this Act to sections 12 to 31 of the Housing (Scotland) Act 1988 includes a reference to sections 47 to 55 of that Act so far as applicable to those sections.”
- (4) In subsection (3) after the words “Rent (Scotland) Act 1984” there shall be inserted the words “or sections 12 to 31 of the Housing (Scotland) Act 1988 ”.

The Leasehold Reform Act 1967

- 15 In section 28 of the ^{M2}Leasehold Reform Act 1967 (retention or resumption of land required for public purposes) at the end of subsection (5) (bodies to whom that section applies) there shall be added “and
- (g) a housing action trust established under Part III of the Housing Act 1988.”

Marginal Citations

M2 1967 c. 88.

- 16 In section 29 of that Act (reservation of future right to develop) after subsection (6B) there shall be inserted the following subsection—
- “(6C) Subsections (1) to (4) above shall have effect in relation to a housing action trust as if any reference in those subsections or in Part I of Schedule 4 to this Act to a local authority were a reference to the trust.”
- 17 (1) In Schedule 4A to that Act (which is set out in Schedule 4 to the ^{M3}Housing and Planning Act 1986 and excludes certain shared ownership leases from Part I of the 1967 Act) at the end of paragraph 2(1) there shall be added “or to a person who acquired that interest in exercise of the right conferred by Part IV of the Housing Act 1988 ”.
- (2) In paragraph 2(2) of that Schedule, at the end of paragraph (e) there shall be added the following paragraph—
- “(f) a housing action trust established under Part III of the Housing Act 1988”.

Marginal Citations

M3 1986 c. 63.

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18 F1

Textual Amendments

F1 Sch. 17 para. 18 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3(1), Sch. 1 Pt. I

The Local Government Act 1974

19 In section 25 of the ^{M4}Local Government Act 1974 (local government administration: authorities subject to investigation), in subsection (1) after paragraph (bd) there shall be inserted the following paragraph—
“(be) any housing action trust established under Part III of the Housing Act 1988”.

Marginal Citations

M4 1974 c. 7.

The Consumer Credit Act 1974

20 In section 16 of the ^{M5}Consumer Credit Act 1974 (exempt agreements), in subsection (6B), in paragraph (a) after the words “England and Wales,” there shall be inserted “the Housing Corporation, Housing for Wales and”.

Marginal Citations

M5 1974 c. 39.

The Rent (Agriculture) Act 1976

21 In section 28 of the ^{M6}Rent (Agriculture) Act 1976 (rehousing: duty of housing authority concerned), the following subsection shall be inserted after subsection (14) of that section—
“(14A) Notwithstanding anything in section 127(1) of the Magistrates’ Courts Act 1980, an information relating to an offence under this section may be tried if it is laid at any time within two years after the commission of the offence and within six months after the date on which evidence sufficient in the opinion of the housing authority concerned to justify the proceedings comes to its knowledge.”

Marginal Citations

M6 1976 c. 80.

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The Rent Act 1977

22 In the ^{M7}Rent Act 1977, sections 68 and 69, Part II of Schedule 11 and Schedule 12 (which provide for applications by a local authority for the determination of a fair rent and make provision about certificates of fair rent) shall cease to have effect except as respects applications made before the commencement of this Act.

Marginal Citations
M7 1977 c. 42.

23 In section 77 of that Act (which provides for the reference of restricted contracts to rent tribunals by the lessor, the lessee or the local authority) the words “or the local authority” shall be omitted.

24 Section 89 of the Rent Act 1977 (which provides for the phasing of progression to a registered rent in the case of housing association tenancies) and Schedule 8 to that Act (phasing of rent increases: general provisions) shall cease to have effect except with respect to an increase in rent up to, or towards, a registered rent in relation to which the relevant date for the purposes of the said Schedule 8 falls before this Act comes into force.

25 In section 137 of the Rent Act 1977 (effect on sub-tenancy of determination of superior tenancy), in subsection (1) the words “this Part of” shall be omitted.

The Protection from Eviction Act 1977

26 In section 7 of the ^{M8}Protection from Eviction Act 1977 (service of notices), in subsection (3)(c) (certain licensors treated as landlords for the purposes of the section) the words “under a restricted contract (within the meaning of the Rent Act 1977)” shall be omitted.

Marginal Citations
M8 1977 c. 43.

The Justices of the Peace Act 1979

F²27

Textual Amendments
F2 Sch. 17 para. 27 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1)(2), Sch. 6 Pt. I (with Sch. 4 para. 27)

The Local Government, Planning and Land Act 1980

28 In Schedule 16 to the ^{M9}Local Government, Planning and Land Act 1980 (bodies to whom Part X applies) after paragraph 8 there shall be inserted the following paragraph—

“8A A housing action trust established under Part III of the Housing Act 1988.”

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Marginal Citations

M9 1980 c. 65.

- 29 In Schedule 28 to the Local Government, Planning and Land Act 1980, in paragraph 10 after the words “Rent Act 1977” there shall be inserted “ “or the Housing Act 1988. ”

The Highways Act 1980

- 30 In Schedule 6 to the ^{M10}Highways Act 1980, in Part I, in paragraph 1(3)(b)(i) after the words “Rent Act 1977” there shall be inserted “ “and licensees under an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 ”.

Marginal Citations

M10 1980 c. 66.

The New Towns Act 1981

- 31 In section 22 of the ^{M11}New Towns Act 1981 (possession of houses) after the words “Rent Act 1977” there shall be inserted “ “or Part I of the Housing Act 1988 ”.

Marginal Citations

M11 1981 c. 64.

The Acquisition of Land Act 1981

- 32 (1) In section 12(2) of the ^{M12}Acquisition of Land Act 1981 after the words “Rent (Agriculture) Act 1976” there shall be inserted “ “or a licensee under an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 ”.
- (2) In Schedule 1 to that Act, in paragraph 3(2) after the words “Rent (Agriculture) Act 1976” there shall be inserted “ “or a licensee under an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 ”.

Marginal Citations

M12 1981 c. 67.

The Matrimonial Homes Act 1983

- ^{F3}33

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Textual Amendments

F3 Sch. 17 para. 33 repealed (E.W.) (1.10.1997) by 1996 c. 27, s. 66(3), **Sch. 10 Pt. I** (with Sch. 9 para. 5); S.I. 1997/1892, **art. 3(d)(vi)**

^{F4}34

Textual Amendments

F4 Sch. 17 para. 34 repealed (E.W.) (1.10.1997) by 1996 c. 27, s. 66(3), **Sch. 10** (with Sch. 9 para. 5); S.I. 1997/1892, **art. 3(d)(vi)**

The County Courts Act 1984

- 35 (1) In section 66 of the ^{M13}County Courts Act 1984 (trial by jury: exceptions), in subsection (1) at the end of paragraph (b)(iii) there shall be inserted “or (iv) under Part I of the Housing Act 1988”.
- (2) In section 77(6) of that Act (appeals: possession proceedings) after paragraph (e) there shall be inserted the following paragraph—
“(ee) section 7 of the Housing Act 1988, as it applies to the grounds in Part II of Schedule 2 to that Act; or”.

Marginal Citations

M13 1984 c. 28.

The Matrimonial and Family Proceedings Act 1984

- 36 In section 22 of the ^{M14}Matrimonial and Family Proceedings Act 1984 (powers of the court in relation to certain tenancies of dwelling-houses), in paragraph (a) after the word “tenancy” there shall be inserted “ “or assured agricultural occupancy ”.

Marginal Citations

M14 1984 c. 42.

The Local Government Act 1985

- 37 In section 101 of the ^{M15}Local Government Act 1985 (power by order to make incidental, consequential, etc. provisions) in subsection (1)(b) after second “Act” insert “ “or the Housing Act 1988 ”.

Marginal Citations

M15 1985 c. 51.

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The Housing Act 1985

F⁵38

Textual Amendments

F5 Sch. 17 Pt. I para. 38 repealed (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. IX; S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

F⁶39

Textual Amendments

F6 Sch. 17 Pt. I para. 39 repealed (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. IX; S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

40 In section 115 of that Act (meaning of “long tenancy”), in subsection (2)(c) after “1980” there shall be inserted “ “or paragraph 4(2)(b) of Schedule 4A to the Leasehold Reform Act 1967 ”.

41 In section 155 of that Act (repayment of discount on early disposal) after subsection (3) there shall be inserted the following subsection—

“(3A) Where a secure tenant has served on his landlord an operative notice of delay, as defined in section 153A,—

- (a) the three years referred to in subsection (2) shall begin from a date which precedes the date of the conveyance of the freehold or grant of the lease by a period equal to the time (or, if there is more than one such notice, the aggregate of the times) during which, by virtue of section 153B, any payment of rent falls to be taken into account in accordance with subsection (3) of that section; and
- (b) any reference in subsection (3) (other than paragraph (a) thereof) to the acquisition of the tenant’s initial share shall be construed as a reference to a date which precedes that acquisition by the period referred to in paragraph (a) of this subsection.”

42 In section 171F of that Act (subsequent dealings after disposal of dwelling-house to private sector landlord: possession on grounds of suitable alternative accommodation) after “Rent Act 1977” there shall be inserted “ “or on Ground 9 in Schedule 2 to the Housing Act 1988 ”.

43 In section 236 of that Act at the end of subsection (2) (meaning of “occupying tenant”) there shall be added the words “or
(e) is a licensee under an assured agricultural occupancy.”

44 In section 238 of that Act (index of defined expressions in Part VII) before the entry relating to “clearance area” there shall be inserted— “ assured agricultural occupancysection 622 ”.

45 In section 247 of that Act (notification of certain disposals of land to the local housing authority), in subsection (5) (provision not to apply to certain disposals) after paragraph (c) there shall be inserted the following paragraph—

“(ca) the grant of an assured tenancy or assured agricultural occupancy, or of a tenancy which is not such a tenancy or occupancy by reason only

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- of paragraph 10 of Schedule 1 to the Housing Act 1988 (resident landlords) or of that paragraph and the fact that the accommodation which is let is not let as a separate dwelling”.
- 46 In section 263 of that Act (index of defined expressions in Part VIII) before the entry relating to “clearance area” there shall be inserted—
- “assured agricultural occupancysection 622
 assured tenancysection 622”.
- 47 In Part IX of that Act (slum clearance) in the following provisions relating to the recovery of possession, namely, sections 264(5), 270(3), 276 and 286(3), after the words “Rent Acts” there shall be inserted “ “or Part I of the Housing Act 1988 ”.
- 48 In section 309 of that Act (recovery of possession of premises for purposes of approved redevelopment), in paragraph (a) of subsection (1) after the words “the Rent Act 1977” the following words shall be inserted “ “or let on or subject to an assured tenancy or assured agricultural occupancy ”; and in the words following paragraph (b) of that subsection after the words “section 98(1)(a) of the Rent Act 1977” there shall be inserted “ “or section 7 of the Housing Act 1988 ”.
- 49 In section 323 of that Act (index of defined expressions in Part IX) before the entry relating to “clearance area” there shall be inserted—
- “assured agricultural occupancysection 622
 assured tenancysection 622”.
- 50 In section 368 of that Act (means of escape from fire: power to secure that part of house not used for human habitation), in subsection (6) after the words “Rent Acts” there shall be inserted “ “or Part I of the Housing Act 1988 ”.
- 51 In section 381 of that Act (general effect of control order), in subsection (3) after the words “Rent Acts” there shall be inserted “ “and Part I of the Housing Act 1988 ”.
- 52 (1) In section 382 of that Act (effect of control order on persons occupying house) after subsection (3) there shall be inserted the following subsection—
- “(3A) Section 1(2) of and paragraph 12 of Part I of Schedule 1 to the Housing Act 1988 (which exclude local authority lettings from Part I of that Act) do not apply to a lease or agreement under which a person to whom this section applies is occupying part of the house.”
- (2) In subsection (4) of that section after paragraph (b) there shall be inserted “or
- (c) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988”; and for the words “either of those Acts” there shall be substituted “ “any of those Acts ”.
- 53 In section 400 of that Act (index of defined expressions for Part XI) after the entry relating to “appropriate multiplier” there shall be inserted—
- “assured tenancysection 622
 assured agricultural occupancysection 622”.
- 54 In section 429A of that Act (housing management: financial assistance etc.) in subsection (2), in paragraph (a) after the words “secure tenancies)” there shall be

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inserted “ “or subsection (2A) ” and at the end of that subsection there shall be inserted the following subsection—

“(2A) Subsection (2)(a) applies to the following bodies—

- (a) the Housing Corporation;
- (b) Housing for Wales;
- (c) a housing trust which is a charity;
- (d) a registered housing association other than a co-operative housing association; and
- (e) an unregistered housing association which is a co-operative housing association.”

55 In section 434 of that Act (index of defined expressions for Part XIII) there shall be inserted, in the appropriate places in alphabetical order, the following entries—

“charitysection 622”

“co-operative housing associationsection 5(2)”

“housing associationsection 5(1)”

“housing trust”section 6”.

F⁷56

Textual Amendments

F7 Sch. 17 Pt. I para. 56 repealed (with savings) (1.10.1996) by S.I. 1996/2325, art. 4(1)-(3), Sch. 1 Pt. I

F⁸57

Textual Amendments

F8 Sch. 17 Pt. I para. 57 repealed (with savings) (1.10.1996) by S.I. 1996/2325, art. 4(1)-(3), Sch. 1 Pt. I

58 In section 459 of that Act (index of defined expressions for Part XIV) after the entry relating to “building society” there shall be inserted—

“co-operative housing associationsection 5(2)”.

59 In section 533 of that Act (assistance for owners of defective housing: exceptions to eligibility) after the words “Rent (Agriculture) Act 1976” there shall be inserted “ “or who occupies the dwelling under an assured agricultural occupancy which is not an assured tenancy ”.

60 In section 553 of that Act (effect of repurchase of defective dwellings on certain existing tenancies) in subsection (2)—

- (a) in paragraph (a) after the words “protected tenancy” there shall be inserted “ “or an assured tenancy ”;
- (b) at the end of paragraph (b) there shall be added the words “ “or in accordance with any of Grounds 1, 3, 4 and 5 in Schedule 2 to the Housing Act 1988 (notice that possession might be recovered under that ground) or under section 20(1)(c) of that Act (notice served in respect of assured shorthold tenancies); and ”; and

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[^{F9}(c) after paragraph (b) there shall be added—

“(c) the tenancy is not an assured periodic tenancy which, by virtue of section 39(7) of the Housing Act 1988 (successors under the Rent Act 1977), is an assured shorthold tenancy”].

Textual Amendments

F9 Sch. 17 Pt. I para. 60(c) repealed (28.2.1997) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. IV; S.I. 1997/225, art. 2 (subject to transitional provisions in Sch.)

61 (1) In section 554 of that Act (grant of tenancy of defective dwelling to former owner-occupier) at the end of subsection (2) there shall be inserted the following subsection—

“(2A) If the authority is a registered housing association, other than a housing co-operative, within the meaning of section 27B, their obligation is to grant a secure tenancy if the individual to whom a tenancy is to be granted—

- (a) is a person who, immediately before he acquired his interest in the dwelling-house, was a secure tenant of it; or
- (b) is the spouse or former spouse or widow or widower of a person falling within paragraph (a); or
- (c) is a member of the family, within the meaning of section 186, of a person falling within paragraph (a) who has died, and was residing with that person in the dwelling-house at the time of and for the period of twelve months before his death.”

(2) In subsection (3) of that section, at the end of paragraph (b) there shall be inserted “or

- (c) an assured tenancy which is neither an assured shorthold tenancy, within the meaning of Part I of the Housing Act 1988, nor a tenancy under which the landlord might recover possession on any of Grounds 1 to 5 in Schedule 2 to that Act.”

62 In section 577 of that Act (index of defined expressions for Part XVI) after the entry relating to “associated arrangement” there shall be inserted—

“assured agricultural occupancysection 622

assured tenancysection 622”.

63 In section 612 of that Act (exclusion of Rent Act protection) after the words “the Rent Acts” there shall be inserted “ “or Part I of the Housing Act 1988 ”.

64 In section 622 of that Act (definitions: general) before the definition of “bank” there shall be inserted—

“ “assured tenancy” has the same meaning as in Part I of the Housing Act 1988;

“assured agricultural occupancy” has the same meaning as in Part I of the Housing Act 1988”.

65 In Schedule 2 to that Act, in Part IV (grounds for possession: suitability of alternative accommodation) in paragraph 1, at the end of sub-paragraph (b) there shall be added “or

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- (c) which are to be let as a separate dwelling under an assured tenancy which is neither an assured shorthold tenancy, within the meaning of Part I of the Housing Act 1988, nor a tenancy under which the landlord might recover possession under any of Grounds 1 to 5 in Schedule 2 to that Act”.
- 66 In Schedule 5 to that Act, in paragraph 3, after the entry for section 58(2) of the ^{M16}Housing Associations Act 1985 there shall be inserted the following entries—
- “section 50 of the Housing Act 1988 (housing association grants), or
section 51 of that Act (revenue deficit grants).”

Marginal Citations

M16 1985 c. 69.

The Landlord and Tenant Act 1985

- 67 (1) In section 5 of the ^{M17}Landlord and Tenant Act 1985 (information to be contained in rent books), in subsection (1)(b) after the word “tenancy” there shall be inserted “or let on an assured tenancy within the meaning of Part I of the Housing Act 1988”.
- (2) In subsection (2) of that section after the word “tenancy” there shall be added “or let on an assured tenancy within the meaning of Part I of the Housing Act 1988”.

Marginal Citations

M17 1985 c. 70.

- 68 In section 26 of that Act (tenants of certain public authorities excepted from provisions about service charges etc.) in subsection (3)(c) after the words “Housing Act 1980” there shall be inserted “or paragraph 4(2)(b) of Schedule 4A to the Leasehold Reform Act 1967”.

The Agricultural Holdings Act 1986

- 69 (1) In Schedule 3 to the ^{M18}Agricultural Holdings Act 1986 (cases where consent of Tribunal to operation of notice to quit is not required), in Part II (provisions applicable to Case A: suitable alternative accommodation), in paragraph 3 after paragraph (b) there shall be inserted “or
- (c) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy which is not an assured shorthold tenancy (construing those terms in accordance with Part I of the Housing Act 1988), or
- (d) premises to be let as a separate dwelling on terms which will afford to the tenant security of tenure reasonably equivalent to the security afforded by Chapter I of Part I of that Act in the case of an assured tenancy which is not an assured shorthold tenancy.”
- (2) At the end of the said paragraph 3 there shall be added the following sub-paragraph—

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“(2) Any reference in sub-paragraph (1) above to an assured tenancy does not include a reference to a tenancy in respect of which possession might be recovered on any of Grounds 1 to 5 in Schedule 2 to the Housing Act 1988.”

Marginal Citations

M18 1986 c. 5.

70 In Schedule 5 to that Act (notice to quit where tenant is a service man), in paragraph 2(2)(a) after the words “Rent Act 1977” there shall be inserted “ “or paragraph 7 of Schedule 1 to the Housing Act 1988 ”.

The Drug Trafficking Offences Act 1986

F1071

Textual Amendments

F10 Sch. 17 Pt. I para. 71 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

F1172

Textual Amendments

F11 Sch. 17 Pt. I para. 72 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

The Insolvency Act 1986

73 In section 308 of the ^{M19}Insolvency Act 1986 (vesting in trustee of certain items of excess value), in subsection (1), for the words “the next section” there shall be substituted “ “section 309 ”.

Marginal Citations

M19 1986 c. 45.

74 In section 335 of that Act (adjustment between earlier and later bankruptcy estates), in subsection (4) after the words “replacement value)” there shall be inserted the words “ “or section 308A (vesting in trustee of certain tenancies) ”.

75 In section 351 of that Act (definitions), in paragraph (a), for the words “or 308” there shall be substituted “ “, section 308 ” and after the words “replacement value)” there shall be inserted “ “or section 308A (vesting in trustee of certain tenancies) ”.

The Social Security Act 1986

76 In section 31 of the ^{M20}Social Security Act 1986 (information relating to housing benefit), in subsection (5) (information as to registered rents), after the words “housing benefit scheme” there shall be inserted “ “(a) ”, and at the end there shall be added “and

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- (b) where a rent is determined under section 14 or section 22 of the Housing Act 1988 or section 25 or section 34 of the Housing (Scotland) Act 1988 (determination of rents by rent assessment committee), the committee shall note in their determination the amount (if any) of the rent which, in the opinion of the committee, is fairly attributable to the provision of services, except where that amount is in their opinion negligible; and the amounts so noted may be included in the information specified in an order under section 42 of the Housing Act 1988 or, as the case may be, section 49 of the Housing (Scotland) Act 1988 (information to be publicly available)”.

Marginal Citations

M20 1986 c. 50.

The Housing (Scotland) Act 1987

77 In section 12 of the ^{M21}Housing (Scotland) Act 1987 (which relates, amongst other things, to the disposal by local authorities of land acquired or appropriated for housing purposes and of houses)—

- (a) in subsection (1)(c), for the words “subsection (5)” there shall be substituted the words “ “subsections (5) and (7) ”;
- (b) in subsection (7)—
 - (i) for “(1)(d)” there shall be substituted “ “(1)(c) or (d) ”;
 - (ii) for the words “house or any part share thereof” there shall be substituted the words “ “land, house or part share thereof ”;
 - (iii) for the words “it is a house” there shall be substituted the words “ “, in the case of a house, it is one ”;
- (c) in subsection (8) after the word “apply” there shall be inserted the words “ “, in the case of a house, ”.

Marginal Citations

M21 1987 c. 26.

78 In section 13 of that Act (power of Secretary of State in certain cases to impose conditions on sale of local authority’s houses etc.) for the words “land or dwelling” there shall be substituted the words “ “or land ”.

79 ^{F12}

Textual Amendments

F12 Sch. 17 para. 79 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), ss. 1(1), 2(1), {Sch. 1 Pt. 10 Group. 3}

The Access to Personal Files Act 1987

F1380

Status: Point in time view as at 17/12/2009.

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Textual Amendments

F13 Sch. 17 Pt. I para. 80 repealed (1.3.2000) by 1998 c. 29, s. 74(2), Sch. 16 Pt. I; S.I. 2000/183, art. 2

The Criminal Justice (Scotland) Act 1987

81 In section 33 of the ^{M22}Criminal Justice (Scotland) Act 1987 (sequestration of person holding realisable property), in subsection (2)(b) for the words “under subsection (6) of that section” there shall be substituted the words “ “under subsection (10) of section 31 of that Act or subsection (6) of the said section 32 of that Act ”.

Marginal Citations

M22 1987 c. 41.

82 In section 34 of that Act (bankruptcy in England and Wales of person holding realisable property), in subsection (2)(b) for the words “or 308” there shall be substituted “ “308 or 308A ” and after the word “replacement” there shall be inserted “ “and certain tenancies ”.

The Criminal Justice Act 1988

83 **F14**

Textual Amendments

F14 Sch. 17 para. 83 repealed (24.3.2003) by Proceeds of Crime Act 2000 (c. 29), ss. 457, 458(1)(3), Sch. 12; S.I. 2003/333, art. 2, Sch. (with transitional provisions and savings in arts. 10, 12)

84 **F15**

Textual Amendments

F15 Sch. 17 para. 84 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), Sch. 12; S.I. 2003/333, art. 2, Sch. (with transitional provisions and savings in arts. 10, 12)

The Housing (Scotland) Act 1988

85 In section 19 of the ^{M23}Housing (Scotland) Act 1988 (notice of proceedings for possession)—
(a) in subsection (2) for the word “is” there shall be substituted the words “ “and particulars of it are ”;
(b) in subsection (3) after the word “one” where it first occurs there shall be inserted the words “ “in the prescribed form ”.

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Marginal Citations

M23 1988 c. 43.

- 86 In section 36 of that Act (damages for unlawful eviction)—
- (a) in subsection (2) for the word “calculated” there shall be substituted the word “likely”;
 - (b) in subsection (7)(b)—
 - (i) after the word “of” where it first occurs there shall be inserted the words “the doing of acts or”;
 - (ii) after the word “for” there shall be inserted the words “doing the acts or”.
- 87 In section 38 of that Act (further offence of harassment)—
- (a) for the words from “In section 22” to “after subsection (2)” there shall be substituted the words—
 - “(1) Subsection (2) of section 22 of the Rent (Scotland) Act 1984 (unlawful eviction and harassment of occupier) shall, as respects acts done after the commencement of this section, have effect with the substitution of the word “likely” for the word “calculated”.
 - (2) After that subsection”;
 - (b) after “(2A)” there shall be inserted the words “Subject to subsection (2B) below”;
 - (c) for the word “calculated” there shall be substituted the word “likely”;
 - (d) the words “subject to subsection (2B) below” and “by reason only of conduct falling within paragraph (b) of that subsection” shall cease to have effect;
 - (e) after the word “for” where it second occurs there shall be inserted the words “doing the acts or”.
- 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.

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(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,

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

89 In section 63 of that Act (consent for subsequent disposals) after subsection (2) there shall be inserted the following subsection—

“(2A) Before giving any consent for the purposes of subsection (1) above, Scottish Homes—

(a) shall satisfy itself that the person who is seeking the consent has taken appropriate steps to consult the tenant of the house (or, as the case may be, each house) of which the property proposed to be disposed of consists; and

(b) shall have regard to the response of such tenant to that consultation.”

90 In Schedule 4 to that Act (tenancies which cannot be assured tenancies) after paragraph 11 there shall be inserted the following paragraph—

“ Accommodation for homeless persons

11A A tenancy granted expressly on a temporary basis in the fulfilment of a duty imposed on a local authority by Part II of the Housing (Scotland) Act 1987.”

Status:

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Changes to legislation:

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