

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 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.”

- 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 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.

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- (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,

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

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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—

“(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,

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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,—

- (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.

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(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
- (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”.

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- (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)—
- (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),—

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- (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—

““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

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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”.