

*Status: Point in time view as at 01/04/1997.*

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### TENANCIES WHICH CANNOT BE ASSURED TENANCIES

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

- C1** Sch. 1 modified by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, Sch. 10 paras. 1(2), 21, 22

### PART I

#### THE TENANCIES

##### *Tenancies entered into before commencement*

- 1 A tenancy which is entered into before, or pursuant to a contract made before, the commencement of this Act.

##### *Tenancies of dwelling-houses with high rateable values*

- [<sup>F1</sup>2 (1) A tenancy—
- (a) which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), and
  - (b) under which the rent payable for the time being is payable at a rate exceeding £25,000 a year.
- (2) In sub-paragraph (1) “rent” does not include any sum payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, [<sup>F2</sup>council tax,] services, management, repairs, maintenance or insurance, unless it could not have been regarded by the parties to the tenancy as a sum so payable.
- (2A) A tenancy—
- (a) which was entered into before the 1st April 1990, or on or after that date in pursuance of a contract made before that date, and
  - (b) under which the dwelling-house had a rateable value on the 31st March 1990 which, if it is in Greater London, exceeded £1,500 and, if it is elsewhere, exceeded £750.]

##### Textual Amendments

- F1** Sch. 1 paras. 2, 2A substituted for para 2 by [S.I. 1990/434, reg. 2](#), [Sch. para. 29](#)
- F2** Words in Sch. 1 para. 2(2) inserted (1.4.1993) by [S.I. 1993/651, art. 2\(1\)](#), [Sch. 1 para.19](#)

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

- C2** Sch. 1 para. 2(2) applied by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, Sch. 10 paras. 2(5), 21, 22 (as amended by [S.I. 1990/434, reg. 2, Sch. para. 34](#))

*Tenancies at a low rent*

- [<sup>F3</sup> A tenancy under which for the time being no rent is payable.]

**Textual Amendments**

- F3** Sch. 1 paras. 3, 3A, 3B, 3C substituted for para. 3 by [S.I. 1990/434, reg. 2, Sch. para. 30](#)

- 3A A tenancy—
- (a) which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), and
  - (b) under which the rent payable for the time being is payable at a rate of, if the dwelling-house is in Greater London, £1,000 or less a year and, if it is elsewhere, £250 or less a year.
- 3B A tenancy—
- (a) which was entered into before 1st April 1990 or, where the dwelling-house had a rateable value on the 31st March 1990, on or after 1st April 1990 in pursuance of a contract made before that date, and
  - (b) under which the rent for the time being payable is less than two-thirds of the rateable value of the dwelling-house on 31st March 1990.
- 3C Paragraph 2(2) above applies for the purposes of paragraphs 3, 3A and 3B as it applies for the purposes of paragraph 2(1).

*Business tenancies*

- 4 A tenancy to which Part II of the <sup>M1</sup>Landlord and Tenant Act 1954 applies (business tenancies).

**Marginal Citations**

- M1** [1954 c.56.](#)

*Licensed premises*

- 5 A tenancy under which the dwelling-house consists of or comprises premises licensed for the sale of intoxicating liquors for consumption on the premises.

*Tenancies of agricultural land*

- 6 (1) A tenancy under which agricultural land, exceeding two acres, is let together with the dwelling-house.

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- (2) In this paragraph “agricultural land” has the meaning set out in section 26(3)(a) of the <sup>M2</sup>General Rate Act 1967 (exclusion of agricultural land and premises from liability for rating).

**Marginal Citations**

**M2** 1967 c. 9.

*[<sup>F4</sup> Tenancies of agricultural holdings etc.]*

**Textual Amendments**

**F4** Sch. 1 para. 7 and cross-heading substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 34 (with s. 37)

- <sup>F57</sup> (1) A tenancy under which the dwelling-house—
- (a) is comprised in an agricultural holding, and
  - (b) is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding.
- (2) A tenancy under which the dwelling-house—
- (a) is comprised in the holding held under a farm business tenancy, and
  - (b) is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the management of the holding.
- (3) In this paragraph—
- “agricultural holding” means any agricultural holding within the meaning of the Agricultural Holdings Act 1986 held under a tenancy in relation to which that Act applies, and
- “farm business tenancy” and “holding”, in relation to such a tenancy, have the same meaning as in the Agricultural Tenancies Act 1995.]

**Textual Amendments**

**F5** Sch. 1 para. 7 and cross-heading substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 34 (with s. 37)

*Lettings to students*

- 8 (1) A tenancy which is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is so granted either by that institution or by another specified institution or body of persons.
- (2) In sub-paragraph (1) above “specified” means specified, or of a class specified, for the purposes of this paragraph by regulations made by the Secretary of State by statutory instrument.
- (3) A statutory instrument made in the exercise of the power conferred by sub-paragraph (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### *Holiday lettings*

- 9        A tenancy the purpose of which is to confer on the tenant the right to occupy the dwelling-house for a holiday.

### *Resident landlords*

- 10      (1) A tenancy in respect of which the following conditions are fulfilled—
- (a) that the dwelling-house forms part only of a building and, except in a case where the dwelling-house also forms part of a flat, the building is not a purpose-built block of flats; and
  - (b) that, subject to Part III of this Schedule, the tenancy was granted by an individual who, at the time when the tenancy was granted, occupied as his only or principal home another dwelling-house which,—
    - (i) in the case mentioned in paragraph (a) above, also forms part of the flat; or
    - (ii) in any other case, also forms part of the building; and
  - (c) that, subject to Part III of this Schedule, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to an individual who, at the time he owned that interest, occupied as his only or principal home another dwelling-house which,—
    - (i) in the case mentioned in paragraph (a) above, also formed part of the flat; or
    - (ii) in any other case, also formed part of the building; and
  - (d) that the tenancy is not one which is excluded from this sub-paragraph by sub-paragraph (3) below.
- (2) If a tenancy was granted by two or more persons jointly, the reference in sub-paragraph (1)(b) above to an individual is a reference to any one of those persons and if the interest of the landlord is for the time being held by two or more persons jointly, the reference in sub-paragraph (1)(c) above to an individual is a reference to any one of those persons.
- (3) A tenancy (in this sub-paragraph referred to as “the new tenancy”) is excluded from sub-paragraph (1) above if—
- (a) it is granted to a person (alone, or jointly with others) who, immediately before it was granted, was a tenant under an assured tenancy (in this sub-paragraph referred to as “the former tenancy”) of the same dwelling-house or of another dwelling-house which forms part of the building in question; and
  - (b) the landlord under the new tenancy and under the former tenancy is the same person or, if either of those tenancies is or was granted by two or more persons jointly, the same person is the landlord or one of the landlords under each tenancy.

### *Crown tenancies*

- 11      (1) A tenancy under which the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department.

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- (2) The reference in sub-paragraph (1) above to the case where the interest of the landlord belongs to Her Majesty in right of the Crown does not include the case where that interest is under the management of the Crown Estate Commissioners.

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

- C3** Sch. 1 para. 11 modified by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), Sch. 8 Pt. III para. 11

*Local authority tenancies etc.*

- 12 (1) A tenancy under which the interest of the landlord belongs to—
- (a) a local authority, as defined in sub-paragraph (2) below;
  - (b) the Commission for the New Towns;
  - (c) the Development Board for Rural Wales;
  - (d) an urban development corporation established by an order under section 135 of the <sup>M3</sup>Local Government, Planning and Land Act 1980;
  - <sup>F6</sup>(da) a National Park authority;
  - (e) a development corporation, within the meaning of the <sup>M4</sup>New Towns Act 1981;
  - (f) an authority established under section 10 of the <sup>M5</sup>Local Government Act 1985 (waste disposal authorities);
  - (g) a residuary body, within the meaning of the Local Government Act 1985;
  - <sup>F7</sup>(gg) The Residuary Body for Wales (Corff Gweddilliol Cymru);
  - (h) a fully mutual housing association; or
  - (i) a housing action trust established under Part III of this Act.
- (2) The following are local authorities for the purposes of sub-paragraph (1)(a) above—
- (a) the council of a county, <sup>F8</sup>county borough, district or London borough;
  - (b) the Common Council of the City of London;
  - (c) the Council of the Isles of Scilly;
  - (d) the Broads Authority;
  - (e) the Inner London Education Authority; and
  - (f) a joint authority, within the meaning of the Local Government Act 1985.
  - <sup>F9</sup>(g) a police authority established under <sup>F10</sup>section 3 of the Police Act 1996.]

**Textual Amendments**

- F6** Sch. 1 para. 12 (1)(da) inserted (23.11.1995) by 1995 c. 25, s. 78, Sch. 10 para. 28 (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F7** Sch. 1 para. 12(1)(gg) inserted (5.7.1994) by 1994 c. 19, ss. 22(2), 66(2)(b), Sch. 13 para. 31 (with ss. 54(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- F8** Words in Sch. 1 para. 12(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 9(2) (with ss. 54(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1
- F9** Sch. 1 para. 12(2)(g) inserted (1.10.1994 for specified purposes, otherwise 1.4.1995) by 1994 c. 29, s. 43, Sch. 4 Pt. II para. 62; S.I. 1994/2025, art. 6(2)(g); S.I. 1994/3262, art. 4, Sch.

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**F10** Words in Sch. 1 para. 12(2)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), Sch. 7 Pt. I para. 1(2)(zc)

**Marginal Citations**

**M3** 1980 c. 65.  
**M4** 1981 c. 64.  
**M5** 1985 c. 51.

VALID FROM 01/01/2009

*<sup>F11</sup>Family intervention tenancies*

**Textual Amendments**

**F11** Sch. 1 para. 12ZA inserted (1.1.2009 for E., otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 297(2), 325; S.I. 2008/3068, art. 4(11) (with arts. 6-13)

12ZA (1) A family intervention tenancy.

- (2) But a family intervention tenancy becomes an assured tenancy if the landlord notifies the tenant that it is to be regarded as an assured tenancy.
- (3) In this paragraph “a family intervention tenancy” means, subject to sub-paragraph (4), a tenancy granted by a registered provider of social housing or a registered social landlord (“the landlord”) in respect of a dwelling-house—
- (a) to a person (“the new tenant”) against whom a possession order under section 7 in respect of another dwelling-house—
    - (i) has been made, in relation to an assured tenancy, on ground 14 or 14A of Part 2 of Schedule 2;
    - (ii) could, in the opinion of the landlord, have been so made in relation to such a tenancy; or
    - (iii) could, in the opinion of the landlord, have been so made if the person had had such a tenancy; and
  - (b) for the purposes of the provision of behaviour support services.
- (4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the landlord has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.
- (5) A notice under this sub-paragraph is a notice stating—
- (a) the reasons for offering the tenancy to the new tenant;
  - (b) the dwelling-house in respect of which the tenancy is to be granted;
  - (c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
  - (d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
  - (e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;

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- (f) any likely action by the landlord if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.
- (6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).
- (7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.
- (8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.
- (9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
- (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Subject to this, a statutory instrument containing regulations made under this paragraph—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this paragraph—
- “appropriate national authority”—
- (a) in relation to England, means the Secretary of State; and
- (b) in relation to Wales, means the Welsh Ministers;
- “behaviour support agreement” means an agreement in writing about behaviour and the provision of support services made between the new tenant, the landlord and the local housing authority for the district in which the dwelling-house which is to be subject to the new tenancy is situated (or between persons who include those persons);
- “behaviour support services” means relevant support services to be provided by any person to—
- (a) the new tenant; or
- (b) any person who is to reside with the new tenant;
- for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);
- “family intervention tenancy” has the meaning given by sub-paragraph (3);
- “landlord” has the meaning given by sub-paragraph (3);
- “local housing authority” (and the reference to its district) has the same meaning as in the Housing Act 1985 (see sections 1 and 2(1) of that Act);
- “the new tenant” has the meaning given by sub-paragraph (3)(a);

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“registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996;  
 “relevant support services” means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement.]

VALID FROM 11/11/1999

*[<sup>F12</sup> Accommodation for asylum-seekers]*

**Textual Amendments**

**F12** Sch. 1 para. 12A and cross-heading preceding it inserted (11.11.1999) by 1999 c. 33, ss. 169(1), 170(3)(s), Sch. 14 para. 88

<sup>F13</sup>12A(1) A tenancy granted by a private landlord under arrangements for the provision of support for asylum-seekers or dependants of asylum-seekers made under Part VI of the Immigration and Asylum Act 1999.

(2) “Private landlord” means a landlord who is not within section 80(1) of the <sup>M6</sup>Housing Act 1985.]

**Textual Amendments**

**F13** Sch. 1 para. 12A and cross-heading preceding it inserted (11.11.1999) by 1999 c. 33, ss. 169(1), 170(3)(s), Sch. 14 para. 88

**Marginal Citations**

**M6** 1985 c. 68.

VALID FROM 15/06/2005

*[<sup>F14</sup> Accommodation for persons with Temporary Protection]*

**Textual Amendments**

**F14** Sch. 1 para. 12B and cross-heading inserted (15.6.2005) by The Displaced Persons (Temporary Protection) Regulations 2005 (S.I. 2005/1379), Sch. para. 6

12B (1) A tenancy granted by a private landlord under arrangements for the provision of accommodation for persons with temporary protection made under the Displaced Persons (Temporary Protection) Regulations 2005.

(2) “Private landlord” means a landlord who is not within section 80(1) of the Housing Act 1985.]



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### *Transitional cases*

- 13 (1) A protected tenancy, within the meaning of the <sup>M7</sup>Rent Act 1977.
- (2) A housing association tenancy, within the meaning of Part VI of that Act.
- (3) A secure tenancy.
- (4) Where a person is a protected occupier of a dwelling-house, within the meaning of the <sup>M8</sup>Rent (Agriculture) Act 1976, the relevant tenancy, within the meaning of that Act, by virtue of which he occupies the dwelling-house.

#### **Marginal Citations**

- M7** 1977 c. 42.  
**M8** 1976 c. 80.

## **PART II**

### **RATEABLE VALUES**

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

- C4** Pt. II (paras. 14–16) applied by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, Sch. 10 paras. 2(5), 21, 22

- 14 (1) The rateable value of a dwelling-house at any time shall be ascertained for the purposes of Part I of this Schedule as follows—
  - (a) if the dwelling-house is a hereditament for which a rateable value is then shown in the valuation list, it shall be that rateable value;
  - (b) if the dwelling-house forms part only of such a hereditament or consists of or forms part of more than one such hereditament, its rateable value shall be taken to be such value as is found by a proper apportionment or aggregation of the rateable value or values so shown.
- (2) Any question arising under this Part of this Schedule as to the proper apportionment or aggregation of any value or values shall be determined by the county court and the decision of that court shall be final.
- 15 Where, after the time at which the rateable value of a dwelling-house is material for the purposes of any provision of Part I of this Schedule, the valuation list is altered so as to vary the rateable value of the hereditament of which the dwelling-house consists (in whole or in part) or forms part and the alteration has effect from that time or from an earlier time, the rateable value of the dwelling-house at the material time shall be ascertained as if the value shown in the valuation list at the material time had been the value shown in the list as altered.
- 16 Paragraphs 14 and 15 above apply in relation to any other land which, under section 2 of this Act, is treated as part of a dwelling-house as they apply in relation to the dwelling-house itself.

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### PART III

#### PROVISIONS FOR DETERMINING APPLICATION OF PARAGRAPH 10 (RESIDENT LANDLORDS)

- 17 (1) In determining whether the condition in paragraph 10(1)(c) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
- (a) any period of not more than twenty-eight days, beginning with the date on which the interest of the landlord under the tenancy becomes vested at law and in equity in an individual who, during that period, does not occupy as his only or principal home another dwelling-house which forms part of the building or, as the case may be, flat concerned;
  - (b) if, within a period falling within paragraph (a) above, the individual concerned notifies the tenant in writing of his intention to occupy as his only or principal home another dwelling-house in the building or, as the case may be, flat concerned, the period beginning with the date on which the interest of the landlord under the tenancy becomes vested in that individual as mentioned in that paragraph and ending—
    - (i) at the expiry of the period of six months beginning on that date, or
    - (ii) on the date on which that interest ceases to be so vested, or
    - (iii) on the date on which that interest becomes again vested in such an individual as is mentioned in paragraph 10(1)(c) or the condition in that paragraph becomes deemed to be fulfilled by virtue of paragraph 18(1) or paragraph 20 below,
 whichever is the earlier; and
  - (c) any period of not more than two years beginning with the date on which the interest of the landlord under the tenancy becomes, and during which it remains, vested—
    - (i) in trustees as such; or
    - (ii) by virtue of section 9 of the <sup>M9</sup>Administration of Estates Act 1925, in [<sup>F15</sup>the Probate Judge or the Public trustee].
- (2) Where the interest of the landlord under a tenancy becomes vested at law and in equity in two or more persons jointly, of whom at least one was an individual, sub-paragraph (1) above shall have effect subject to the following modifications—
- (a) in paragraph (a) for the words from “an individual” to “occupy” there shall be substituted “the joint landlords if, during that period none of them occupies”; and
  - (b) in paragraph (b) for the words “the individual concerned” there shall be substituted “any of the joint landlords who is an individual” and for the words “that individual” there shall be substituted “the joint landlords”.

#### Textual Amendments

**F15** Words in Sch. 1 para. 17(1)(c)(ii) substituted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 11** (with s. 20); S.I. 1995/1317, **art. 2**

#### Marginal Citations

**M9** 1925 c. 23.

- 18 (1) During any period when—

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- (a) the interest of the landlord under the tenancy referred to in paragraph 10 above is vested in trustees as such, and
- (b) that interest is <sup>F16</sup> . . . held on trust for any person who or for two or more persons of whom at least one occupies as his only or principal home a dwelling-house which forms part of the building or, as the case may be, flat referred to in paragraph 10(1)(a),

the condition in paragraph 10(1)(c) shall be deemed to be fulfilled and accordingly, no part of that period shall be disregarded by virtue of paragraph 17 above.

- (2) If a period during which the condition in paragraph 10(1)(c) is deemed to be fulfilled by virtue of sub-paragraph (1) above comes to an end on the death of a person who was in occupation of a dwelling-house as mentioned in paragraph (b) of that sub-paragraph, then, in determining whether that condition is at any time thereafter fulfilled, there shall be disregarded any period—
  - (a) which begins on the date of the death;
  - (b) during which the interest of the landlord remains vested as mentioned in sub-paragraph (1)(a) above; and
  - (c) which ends at the expiry of the period of two years beginning on the date of the death or on any earlier date on which the condition in paragraph 10(1)(c) becomes again deemed to be fulfilled by virtue of sub-paragraph (1) above.

#### Textual Amendments

**F16** Words in **Sch. 1 para. 18(1)(b)** repealed (1.1.1997) by **1996 c. 47, s. 25(2), Sch. 4** (with ss. 24(2), 25(4)(5)); **S.I. 1996/2974, art. 2**

- 19 In any case where—
  - (a) immediately before a tenancy comes to an end the condition in paragraph 10(1)(c) is deemed to be fulfilled by virtue of paragraph 18(1) above, and
  - (b) on the coming to an end of that tenancy the trustees in whom the interest of the landlord is vested grant a new tenancy of the same or substantially the same dwelling-house to a person (alone or jointly with others) who was the tenant or one of the tenants under the previous tenancy,the condition in paragraph 10(1)(b) above shall be deemed to be fulfilled with respect to the new tenancy.
- 20 (1) The tenancy referred to in paragraph 10 above falls within this paragraph if the interest of the landlord under the tenancy becomes vested in the personal representatives of a deceased person acting in that capacity.
- (2) If the tenancy falls within this paragraph, the condition in paragraph 10(1)(c) shall be deemed to be fulfilled for any period, beginning with the date on which the interest becomes vested in the personal representatives and not exceeding two years, during which the interest of the landlord remains so vested.
- 21 Throughout any period which, by virtue of paragraph 17 or paragraph 18(2) above, falls to be disregarded for the purpose of determining whether the condition in paragraph 10(1)(c) is fulfilled with respect to a tenancy, no order shall be made for possession of the dwelling-house subject to that tenancy, other than an order which might be made if that tenancy were or, as the case may be, had been an assured tenancy.

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- 22 For the purposes of paragraph 10 above, a building is a purpose-built block of flats if as constructed it contained, and it contains, two or more flats; and for this purpose “flat” means a dwelling-house which—
- (a) forms part only of a building; and
  - (b) is separated horizontally from another dwelling-house which forms part of the same building.

## SCHEDULE 2

Section 7.

### GROUNDS FOR POSSESSION OF DWELLING-HOUSES LET ON ASSURED TENANCIES

#### PART I

#### GROUNDS ON WHICH COURT MUST ORDER POSSESSION

##### *Ground 1*

Not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground or the court is of the opinion that it is just and equitable to dispense with the requirement of notice and (in either case)—

- (a) at some time before the beginning of the tenancy, the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them occupied the dwelling-house as his only or principal home; or
- (b) the landlord who is seeking possession or, in the case of joint landlords seeking possession, at least one of them requires the dwelling-house as his or his spouse’s only or principal home and neither the landlord (or, in the case of joint landlords, any one of them) nor any other person who, as landlord, derived title under the landlord who gave the notice mentioned above acquired the reversion on the tenancy for money or money’s worth.

##### *Ground 2*

The dwelling-house is subject to a mortgage granted before the beginning of the tenancy and—

- (a) the mortgagee is entitled to exercise a power of sale conferred on him by the mortgage or by section 101 of the <sup>M10</sup>Law of Property Act 1925; and
- (b) the mortgagee requires possession of the dwelling-house for the purpose of disposing of it with vacant possession in exercise of that power; and
- (c) either notice was given as mentioned in Ground 1 above or the court is satisfied that it is just and equitable to dispense with the requirement of notice;

and for the purposes of this ground “mortgage” includes a charge and “mortgagee” shall be construed accordingly.

#### **Marginal Citations**

**M10** 1925 c. 20.

*Status: Point in time view as at 01/04/1997.*

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#### **Marginal Citations**

**M10** 1925 c. 20.

#### *Ground 3*

The tenancy is a fixed term tenancy for a term not exceeding eight months and—

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

#### *Ground 4*

The tenancy is a fixed term tenancy for a term not exceeding twelve months and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) at some time within the period of twelve months ending with the beginning of the tenancy, the dwelling-house was let on a tenancy falling within paragraph 8 of Schedule 1 to this Act.

#### *Ground 5*

The dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and—

- (a) not later than the beginning of the tenancy the landlord gave notice in writing to the tenant that possession might be recovered on this ground; and
- (b) the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.

#### *Ground 6*

The landlord who is seeking possession or, if that landlord is a <sup>F17</sup>registered social landlord or charitable housing trust, a superior landlord intends to demolish or reconstruct the whole or a substantial part of the dwelling-house or to carry out substantial works on the dwelling-house or any part thereof or any building of which it forms part and the following conditions are fulfilled—

- (a) the intended work cannot reasonably be carried out without the tenant giving up possession of the dwelling-house because—
  - (i) the tenant is not willing to agree to such a variation of the terms of the tenancy as would give such access and other facilities as would permit the intended work to be carried out, or
  - (ii) the nature of the intended work is such that no such variation is practicable, or
  - (iii) the tenant is not willing to accept an assured tenancy of such part only of the dwelling-house (in this sub-paragraph referred to as “the reduced part”) as would leave in the possession of his landlord so much of the dwelling-house as would be reasonable to enable the intended work to be carried out and, where appropriate, as would give such access and other facilities over the reduced part as would permit the intended work to be carried out, or

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- (iv) the nature of the intended work is such that such a tenancy is not practicable; and
- (b) either the landlord seeking possession acquired his interest in the dwelling-house before the grant of the tenancy or that interest was in existence at the time of that grant and neither that landlord (or, in the case of joint landlords, any of them) nor any other person who, alone or jointly with others, has acquired that interest since that time acquired it for money or money's worth; and
- (c) the assured tenancy on which the dwelling-house is let did not come into being by virtue of any provision of Schedule 1 to the <sup>M11</sup>Rent Act 1977, as amended by Part I of Schedule 4 to this Act or, as the case may be, section 4 of the <sup>M12</sup>Rent (Agriculture) Act 1976, as amended by Part II of that Schedule.

#### Textual Amendments

**F17** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(a\)](#)

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

**C5** Sch. 2 Ground 6 applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 186, Sch. 10 paras. 5, 21, 22](#)

#### Marginal Citations

**M11** 1977 c. 42.

**M12** 1976 c. 80.

For the purposes of this ground, if, immediately before the grant of the tenancy, the tenant to whom it was granted or, if it was granted to joint tenants, any of them was the tenant or one of the joint tenants [<sup>F18</sup>of the dwelling-house concerned] under an earlier assured tenancy [<sup>F19</sup>or, as the case may be, under a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applied], any reference in paragraph (b) above to the grant of the tenancy is a reference to the grant of that earlier assured tenancy [<sup>F18</sup>or, as the case may be, to the grant of the tenancy to which the said Schedule 10 applied].

#### Textual Amendments

**F18** Words in Sch. 2 Pt. I Ground 6 inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194, Sch. 11 para. 108](#)

**F19** Words in Sch. 2 Pt. I Ground 6 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194, Sch. 11 para. 108](#)

For the purposes of this ground [<sup>F20</sup>“registered social landlord” has the same meaning as in the Housing Act 1985 (see section 5(4) and (5) of that Act)] and “charitable housing trust” means a housing trust, within the meaning of [<sup>F21</sup>the Housing Associations Act 1985], which is a charity, within the meaning of [<sup>F22</sup>the Charities Act 1993].

#### Textual Amendments

**F20** Sch. 2 Pt. I Ground 6: definition of “registered social landlord” substituted (1.10.1996) for the definition of “registered housing association” by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(b\)](#)

**F21** Words in Sch. 2 Pt. I Ground 6 substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(c\)](#)

*Status: Point in time view as at 01/04/1997.*

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**F22** Words in [Sch. 2 Pt. I Ground 6](#) substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\), Sch. 6 para. 30](#)

**F23** . . .

#### Textual Amendments

**F23** Words in [Sch. 2 Pt. I Ground 6](#) repealed (1.10.1996) by [1996 c. 52, s. 227, Sch. 19 Pt. IX; S.I. 1996/2402, art. 3](#) (subject to transitional provisions in [Sch.](#))

#### Textual Amendments

- F17** Words in [Sch. 2 Pt. I Ground 6](#) substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(a\)](#)
- F18** Words in [Sch. 2 Pt. I Ground 6](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194, Sch. 11 para. 108](#)
- F19** Words in [Sch. 2 Pt. I Ground 6](#) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194, Sch. 11 para. 108](#)
- F20** [Sch. 2 Pt. I Ground 6](#): definition of “registered social landlord” substituted (1.10.1996) for the definition of “registered housing association” by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(b\)](#)
- F21** Words in [Sch. 2 Pt. I Ground 6](#) substituted (1.10.1996) by [S.I. 1996/2325, art. 5\(1\), Sch. 2 para. 18\(13\)\(c\)](#)
- F22** Words in [Sch. 2 Pt. I Ground 6](#) substituted (1.8.1993) by [1993 c. 10, ss. 98\(1\), 99\(1\), Sch. 6 para. 30](#)
- F23** Words in [Sch. 2 Pt. I Ground 6](#) repealed (1.10.1996) by [1996 c. 52, s. 227, Sch. 19 Pt. IX; S.I. 1996/2402, art. 3](#) (subject to transitional provisions in [Sch.](#))

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

**C5** [Sch. 2 Ground 6](#) applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 186, Sch. 10 paras. 5, 21, 22](#)

#### Marginal Citations

- M11** [1977 c. 42.](#)
- M12** [1976 c. 80.](#)

### Ground 7

The tenancy is a periodic tenancy (including a statutory periodic tenancy) which has devolved under the will or intestacy of the former tenant and the proceedings for the recovery of possession are begun not later than twelve months after the death of the former tenant or, if the court so directs, after the date on which, in the opinion of the court, the landlord or, in the case of joint landlords, any one of them became aware of the former tenant’s death.

For the purposes of this ground, the acceptance by the landlord of rent from a new tenant after the death of the former tenant shall not be regarded as creating a new periodic tenancy, unless the landlord agrees in writing to a change (as compared with the tenancy before the death) in the amount of the rent, the period of the tenancy, the premises which are let or any other term of the tenancy.

### Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

- (a) if rent is payable weekly or fortnightly, at least [<sup>F24</sup>eight weeks’] rent is unpaid;

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- (b) if rent is payable monthly, at least [<sup>F25</sup>two months'] rent is unpaid;
  - (c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and
  - (d) if rent is payable yearly, at least three months' rent is more than three months in arrears;
- and for the purpose of this ground "rent" means rent lawfully due from the tenant.

**Textual Amendments**

- F24** Words in Sch. 2 Pt. I Ground 8 para. (a) substituted (28.2.1997) by [1996 c. 52, s. 101\(a\)](#); S.I. 1997/225, [art. 2](#)
- F25** Words in Sch. 2 Pt. I Ground 8 para. (b) substituted (1.1.1997) by [1996 c. 52, s. 101\(b\)](#); S.I. 1997/225, [art. 2](#)

**Textual Amendments**

- F24** Words in Sch. 2 Pt. I Ground 8 para. (a) substituted (28.2.1997) by [1996 c. 52, s. 101\(a\)](#); S.I. 1997/225, [art. 2](#)
- F25** Words in Sch. 2 Pt. I Ground 8 para. (b) substituted (1.1.1997) by [1996 c. 52, s. 101\(b\)](#); S.I. 1997/225, [art. 2](#)

## PART II

### GROUNDS ON WHICH COURT MAY ORDER POSSESSION

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

- C6** [Pt. II \(Grounds 9–15\)](#) applied with modifications by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 186, [Sch. 10 paras. 5, 21, 22](#)

#### *Ground 9*

Suitable alternative accommodation is available for the tenant or will be available for him when the order for possession takes effect.

#### *Ground 10*

Some rent lawfully due from the tenant—

- (a) is unpaid on the date on which the proceedings for possession are begun; and
- (b) except where subsection (1)(b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

#### *Ground 11*

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due.



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### Ground 12

Any obligation of the tenancy (other than one related to the payment of rent) has been broken or not performed.

### Ground 13

The condition of the dwelling-house or any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any other person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

For the purposes of this ground, “common parts” means any part of a building comprising the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses in which the landlord has an estate or interest.

### Ground 14

[<sup>F26</sup>The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.]

#### Textual Amendments

**F26** Sch. 2 Pt. II Ground 14 substituted (28.2.1997) by 1996 c. 52, s. 148; S.I. 1997/225, art. 2 (with Sch.)

### [<sup>F27</sup>Ground 14A]

#### Textual Amendments

**F27** Sch. 2 Pt. II Ground 14A and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 149; S.I. 1997/225, art. 2 (with Sch.)

[<sup>F28</sup>The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) the landlord who is seeking possession is a registered social landlord or a charitable housing trust,
- (c) one partner has left the dwelling-house because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and

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(d) the court is satisfied that the partner who has left is unlikely to return.

For the purposes of this ground “registered social landlord” and “member of the family” have the same meaning as in Part I of the <sup>M13</sup>Housing Act 1996 and “charitable housing trust” means a housing trust, within the meaning of the <sup>M14</sup>Housing Associations Act 1985, which is a charity within the meaning of the Charities Act 1993.

**Textual Amendments**

**F28** Sch. 2 Pt. II Ground 14A and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 149; S.I. 1997/225, art. 2 (with Sch.)

**Marginal Citations**

**M13** 1985 c. 69.

**M14** 1993 c. 10.

*Ground 15*

The condition of any furniture provided for use under the tenancy has, in the opinion of the court, deteriorated owing to ill-treatment by the tenant or any other person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or by a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

*Ground 16*

The dwelling-house was let to the tenant in consequence of his employment by the landlord seeking possession or a previous landlord under the tenancy and the tenant has ceased to be in that employment.

[<sup>F29</sup>For the purposes of this ground, at a time when the landlord is or was the Secretary of State, employment by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, shall be regarded as employment by the Secretary of State.]

**Textual Amendments**

**F29** Words added by National Health and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), Sch. 8 para. 10

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

**C7** Pt. II Ground 16 applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 5, 21, 22

*[<sup>F30</sup>Ground 17]*

**Textual Amendments**

**F30** Sch. 2 Pt. II Ground 17 and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 102; S.I. 1997/225, art. 2 (with Sch.)

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[<sup>F31</sup>The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by—

- (a) the tenant, or
- (b) a person acting at the tenant's instigation.]

#### Textual Amendments

**F31** Sch. 2 Pt. II Ground 17 and cross-heading inserted (28.2.1997) by 1996 c. 52, s. 102; S.I. 1997/225, art. 2 (with Sch.)

### PART III

#### SUITABLE ALTERNATIVE ACCOMMODATION

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

**C8** Pt. III (paras. 1–6) applied with modifications by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 186, Sch. 10 paras. 13(5), 21, 22

- 1 For the purposes of Ground 9 above, a certificate of the local housing authority for the district in which the dwelling-house in question is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.
- 2 Where no such certificate as is mentioned in paragraph 1 above is produced to the court, accommodation shall be deemed to be suitable for the purposes of Ground 9 above if it consists of either—
  - (a) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy, other than—
    - (i) a tenancy in respect of which notice is given not later than the beginning of the tenancy that possession might be recovered on any of Grounds 1 to 5 above, or
    - (ii) an assured shorthold tenancy, within the meaning of Chapter II of Part I of this Act, or
  - (b) premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by Chapter I of Part I of this Act in the case of an assured tenancy of a kind mentioned in sub-paragraph (a) above,and, in the opinion of the court, the accommodation fulfils the relevant conditions as defined in paragraph 3 below.
- 3 (1) For the purposes of paragraph 2 above, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his family as regards proximity to place of work, and either—
  - (a) similar as regards rental and extent to the accommodation afforded by dwelling-houses provided in the neighbourhood by any local housing authority for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and of his family; or

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- (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character; and  
 that if any furniture was provided for use under the assured tenancy in question, furniture is provided for use in the accommodation which is either similar to that so provided or is reasonably suitable to the needs of the tenant and his family.
- (2) For the purposes of sub-paragraph (1)(a) above, a certificate of a local housing authority stating—
- (a) the extent of the accommodation afforded by dwelling-houses provided by the authority to meet the needs of tenants with families of such number as may be specified in the certificate, and
- (b) the amount of the rent charged by the authority for dwelling-houses affording accommodation of that extent,
- shall be conclusive evidence of the facts so stated.
- 4 Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of Part X of <sup>M15</sup> the Housing Act 1985.

#### Marginal Citations

M15 1985 c.68.

- 5 Any document purporting to be a certificate of a local housing authority named therein issued for the purposes of this Part of this Schedule and to be signed by the proper officer of that authority shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.
- 6 In this Part of this Schedule “local housing authority” and “district”, in relation to such an authority, have the same meaning as in the Housing Act 1985.

## PART IV

### NOTICES RELATING TO RECOVERY OF POSSESSION

- 7 Any reference in Grounds I to 5 in Part I of this Schedule or in the following provisions of this Part to the landlord giving a notice in writing to the tenant is, in the case of joint landlords, a reference to at least one of the joint landlords giving such a notice.
- 8 (1) If, not later than the beginning of a tenancy (in this paragraph referred to as “the earlier tenancy”), the landlord gives such a notice in writing to the tenant as is mentioned in any of Grounds I to 5 in Part I of this Schedule, then, for the purposes of the ground in question and any further application of this paragraph, that notice shall also have effect as if it had been given immediately before the beginning of any later tenancy falling within sub-paragraph (2) below.
- (2) Subject to sub-paragraph (3) below, sub-paragraph (1) above applies to a later tenancy—
- (a) which takes effect immediately on the coming to an end of the earlier tenancy; and

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- (b) which is granted (or deemed to be granted) to the person who was the tenant under the earlier tenancy immediately before it came to an end; and
  - (c) which is of substantially the same dwelling-house as the earlier tenancy.
- (3) Sub-paragraph (1) above does not apply in relation to a later tenancy if, not later than the beginning of the tenancy, the landlord gave notice in writing to the tenant that the tenancy is not one in respect of which possession can be recovered on the ground in question.
- 9 Where paragraph 8(1) above has effect in relation to a notice given as mentioned in Ground I in Part I of this Schedule, the reference in paragraph (b) of that ground to the reversion on the tenancy is a reference to the reversion on the earlier tenancy and on any later tenancy falling within paragraph 8(2) above.
- 10 Where paragraph 8(1) above has effect in relation to a notice given as mentioned in Ground 3 or Ground 4 in Part I of this Schedule, any second or subsequent tenancy in relation to which the notice has effect shall be treated for the purpose of that ground as beginning at the beginning of the tenancy in respect of which the notice was actually given.
- 11 Any reference in Grounds 1 to 5 in Part I of this Schedule to a notice being given not later than the beginning of the tenancy is a reference to its being given not later than the day on which the tenancy is entered into and, accordingly, section 45(2) of this Act shall not apply to any such reference.

## [<sup>F32</sup>SCHEDULE 2A

### ASSURED TENANCIES: NON-SHORTHOLDS]

#### Textual Amendments

**F32** Sch. 2A inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

#### *[<sup>F32</sup> Tenancies excluded by notice*

- <sup>F33</sup>1 (1) An assured tenancy in respect of which a notice is served as mentioned in sub-paragraph (2) below.
- (2) The notice referred to in sub-paragraph (1) above is one which—
- (a) is served before the assured tenancy is entered into,
  - (b) is served by the person who is to be the landlord under the assured tenancy on the person who is to be the tenant under that tenancy, and
  - (c) states that the assured tenancy to which it relates is not to be an assured shorthold tenancy.

#### Textual Amendments

**F33** Sch. 2A para. 1 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

*Status: Point in time view as at 01/04/1997.*

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- F34<sup>2</sup> (1) An assured tenancy in respect of which a notice is served as mentioned in sub-paragraph (2) below.
- (2) The notice referred to in sub-paragraph (1) above is one which—
- (a) is served after the assured tenancy has been entered into,
  - (b) is served by the landlord under the assured tenancy on the tenant under that tenancy, and
  - (c) states that the assured tenancy to which it relates is no longer an assured shorthold tenancy.

**Textual Amendments**

**F34** Sch. 2A para. 2 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

*Tenancies containing exclusionary provision*

- F35<sup>3</sup> An assured tenancy which contains a provision to the effect that the tenancy is not an assured shorthold tenancy.

**Textual Amendments**

**F35** Sch. 2A para. 3 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

*Tenancies under section 39*

- F36<sup>4</sup> An assured tenancy arising by virtue of section 39 above, other than one to which subsection (7) of that section applies.

**Textual Amendments**

**F36** Sch. 2A para. 4 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

*Former secure tenancies*

- F37<sup>5</sup> An assured tenancy which became an assured tenancy on ceasing to be a secure tenancy.

**Textual Amendments**

**F37** Sch. 2A para. 5 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

*Status: Point in time view as at 01/04/1997.*

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VALID FROM 30/06/2004

*[<sup>F38</sup> Former demoted tenancies*

**Textual Amendments**

**F38** Sch. 2A para. 5A and cross-heading inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-Social Behaviour Act 2003 (c. 38), ss. 15(3), 93; S.I. 2004/1502, art. 2(a)(iv); S.I. 2002/1225, art. 2(c)

5A An assured tenancy which ceases to be an assured shorthold tenancy by virtue of section 20B(2) or (4).]

*Tenancies under Schedule 10 to the Local Government and Housing Act 1989*

<sup>F39</sup>6 An assured tenancy arising by virtue of Schedule 10 to the <sup>M16</sup>Local Government and Housing Act 1989 (security of tenure on ending of long residential tenancies).

**Textual Amendments**

**F39** Sch. 2A para. 6 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

**Marginal Citations**

**M16** 1989 c. 42.

*Tenancies replacing non-shortholds*

- <sup>F40</sup>7 (1) An assured tenancy which—
- (a) is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was the tenant (or, in the case of joint tenants, one of the tenants) under an assured tenancy other than a shorthold tenancy (“the old tenancy”),
  - (b) is granted (alone or jointly with others) by a person who was at that time the landlord (or one of the joint landlords) under the old tenancy, and
  - (c) is not one in respect of which a notice is served as mentioned in sub-paragraph (2) below.
- (2) The notice referred to in sub-paragraph (1)(c) above is one which—
- (a) is in such form as may be prescribed,
  - (b) is served before the assured tenancy is entered into,
  - (c) is served by the person who is to be the tenant under the assured tenancy on the person who is to be the landlord under that tenancy (or, in the case of joint landlords, on at least one of the persons who are to be joint landlords), and
  - (d) states that the assured tenancy to which it relates is to be a shorthold tenancy.

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#### Textual Amendments

**F40** Sch. 2A para. 7 inserted (23.8.1996 for certain purposes and 28.2.1997 otherwise) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1996/2212, art. 3 (subject to savings in Sch.); S.I. 1997/225, art. 2 (subject to savings in Sch.)

<sup>F41</sup>8 An assured tenancy which comes into being by virtue of section 5 above on the coming to an end of an assured tenancy which is not a shorthold tenancy.

#### Textual Amendments

**F41** Sch. 2A para. 8 inserted (28.2.1997) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1997/225, art. 2 (subject to savings in Sch.)

### *Assured agricultural occupancies*

- <sup>F42</sup>9 (1) An assured tenancy—
- (a) in the case of which the agricultural worker condition is, by virtue of any provision of Schedule 3 to this Act, for the time being fulfilled with respect to the dwelling-house subject to the tenancy, and
  - (b) which does not fall within sub-paragraph (2) or (4) below.
- (2) An assured tenancy falls within this sub-paragraph if—
- (a) before it is entered into, a notice—
    - (i) in such form as may be prescribed, and
    - (ii) stating that the tenancy is to be a shorthold tenancy,
 is served by the person who is to be the landlord under the tenancy on the person who is to be the tenant under it, and
  - (b) it is not an excepted tenancy.
- (3) For the purposes of sub-paragraph (2)(b) above, an assured tenancy is an excepted tenancy if—
- (a) the person to whom it is granted or, as the case may be, at least one of the persons to whom it is granted was, immediately before it is granted, a tenant or licensee under an assured agricultural occupancy, and
  - (b) the person by whom it is granted or, as the case may be, at least one of the persons by whom it is granted was, immediately before it is granted, a landlord or licensor under the assured agricultural occupancy referred to in paragraph (a) above.
- (4) An assured tenancy falls within this sub-paragraph if it comes into being by virtue of section 5 above on the coming to an end of a tenancy falling within sub-paragraph (2) above.]

#### Textual Amendments

**F42** Sch. 2A para. 9 inserted (23.8.1996 for certain purposes and 28.2.1997 otherwise) by 1996 c. 52, s. 96(2), Sch. 7; S.I. 1996/2212, art. 3 (subject to savings in Sch.); S.I. 1997/225, art. 2 (subject to savings in Sch.)



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## SCHEDULE 3

Section 24.

### AGRICULTURAL WORKER CONDITIONS

#### *Interpretation*

- 1 (1) In this Schedule—
- “the 1976 Act” means the <sup>M17</sup>Rent (Agriculture) Act 1976;
  - “agriculture” has the same meaning as in the 1976 Act; and
  - “relevant tenancy or licence” means a tenancy or licence of a description specified in section 24(2) of this Act.
- (2) In relation to a relevant tenancy or licence—
- (a) “the occupier” means the tenant or licensee; and
  - (b) “the dwelling-house” means the dwelling-house which is let under the tenancy or, as the case may be, is occupied under the licence.
- (3) Schedule 3 to the 1976 Act applies for the purposes of this Schedule as it applies for the purposes of that Act and, accordingly, shall have effect to determine—
- (a) whether a person is a qualifying worker;
  - (b) whether a person is incapable of whole-time work in agriculture, or work in agriculture as a permit worker, in consequence of a qualifying injury or disease; and
  - (c) whether a dwelling-house is in qualifying ownership.

#### **Marginal Citations**

**M17** 1976 c. 80.

#### *The conditions*

- 2 The agricultural worker condition is fulfilled with respect to a dwelling-house subject to a relevant tenancy or licence if—
- (a) the dwelling-house is or has been in qualifying ownership at any time during the subsistence of the tenancy or licence (whether or not it was at that time a relevant tenancy or licence); and
  - (b) the occupier or, where there are joint occupiers, at least one of them—
    - (i) is a qualifying worker or has been a qualifying worker at any time during the subsistence of the tenancy or licence (whether or not it was at that time a relevant tenancy or licence); or
    - (ii) is incapable of whole-time work in agriculture or work in agriculture as a permit worker in consequence of a qualifying injury or disease.
- 3 (1) The agricultural worker condition is also fulfilled with respect to a dwelling-house subject to a relevant tenancy or licence if—
- (a) that condition was previously fulfilled with respect to the dwelling-house but the person who was then the occupier or, as the case may be, a person

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- who was one of the joint occupiers (whether or not under the same relevant tenancy or licence) has died; and
- (b) that condition ceased to be fulfilled on the death of the occupier referred to in paragraph (a) above (hereinafter referred to as “the previous qualifying occupier”); and
- (c) the occupier is either—
- (i) the qualifying widow or widower of the previous qualifying occupier; or
  - (ii) the qualifying member of the previous qualifying occupier’s family.
- (2) For the purposes of sub-paragraph (1)(c)(i) above and sub-paragraph (3) below a widow or widower of the previous qualifying occupier of the dwelling-house is a qualifying widow or widower if she or he was residing in the dwelling-house immediately before the previous qualifying occupier’s death.
- (3) Subject to sub-paragraph (4) below, for the purposes of sub-paragraph (1)(c)(ii) above, a member of the family of the previous qualifying occupier of the dwelling-house is the qualifying member of the family if—
- (a) on the death of the previous qualifying occupier there was no qualifying widow or widower; and
  - (b) the member of the family was residing in the dwelling-house with the previous qualifying occupier at the time of, and for the period of two years before, his death.
- (4) Not more than one member of the previous qualifying occupier’s family may be taken into account in determining whether the agricultural worker condition is fulfilled by virtue of this paragraph and, accordingly, if there is more than one member of the family—
- (a) who is the occupier in relation to the relevant tenancy or licence, and
  - (b) who, apart from this sub-paragraph, would be the qualifying member of the family by virtue of sub-paragraph (3) above,
- only that one of those members of the family who may be decided by agreement or, in default of agreement by the county court, shall be the qualifying member.
- (5) For the purposes of the preceding provisions of this paragraph a person who, immediately before the previous qualifying occupier’s death, was living with the previous occupier as his or her wife or husband shall be treated as the widow or widower of the previous occupier.
- (6) If, immediately before the death of the previous qualifying occupier, there is, by virtue of sub-paragraph (5) above, more than one person who falls within sub-paragraph (1)(c)(i) above, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be treated as the qualifying widow or widower for the purposes of this paragraph.
- 4 The agricultural worker condition is also fulfilled with respect to a dwelling-house subject to a relevant tenancy or licence if—
- (a) the tenancy or licence was granted to the occupier or, where there are joint occupiers, at least one of them in consideration of his giving up possession of another dwelling-house of which he was then occupier (or one of joint occupiers) under another relevant tenancy or licence; and
  - (b) immediately before he gave up possession of that dwelling-house, as a result of his occupation the agricultural worker condition was fulfilled with

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respect to it (whether by virtue of paragraph 2 or paragraph 3 above or this paragraph);

and the reference in paragraph (a) above to a tenancy or licence granted to the occupier or at least one of joint occupiers includes a reference to the case where the grant is to him together with one or more other persons.

5 (1) This paragraph applies where—

- (a) by virtue of any of paragraphs 2 to 4 above, the agricultural worker condition is fulfilled with respect to a dwelling-house subject to a relevant tenancy or licence (in this paragraph referred to as “the earlier tenancy or licence”); and
- (b) another relevant tenancy or licence of the same dwelling-house (in this paragraph referred to as “the later tenancy or licence”) is granted to the person who, immediately before the grant, was the occupier or one of the joint occupiers under the earlier tenancy or licence and as a result of whose occupation the agricultural worker condition was fulfilled as mentioned in paragraph (a) above;

and the reference in paragraph (b) above to the grant of the later tenancy or licence to the person mentioned in that paragraph includes a reference to the case where the grant is to that person together with one or more other persons.

- (2) So long as a person as a result of whose occupation of the dwelling-house the agricultural worker condition was fulfilled with respect to the earlier tenancy or licence continues to be the occupier, or one of the joint occupiers, under the later tenancy or licence, the agricultural worker condition shall be fulfilled with respect to the dwelling-house.
- (3) For the purposes of paragraphs 3 and 4 above and any further application of this paragraph, where sub-paragraph (2) above has effect, the agricultural worker condition shall be treated as fulfilled so far as concerns the later tenancy or licence by virtue of the same paragraph of this Schedule as was applicable (or, as the case may be, last applicable) in the case of the earlier tenancy or licence.

## SCHEDULE 4

Section 39.

### STATUTORY TENANTS: SUCCESSION

#### PART I

#### AMENDMENTS OF SCHEDULE 1 TO <sup>M18</sup>RENT ACT 1977

##### Marginal Citations

**M18** 1977 c. 42.

- 1 In paragraph 1 the words “or, as the case may be, paragraph 3” shall be omitted.
- 2 At the end of paragraph 2 there shall be inserted the following sub-paragraphs—

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“(2) For the purposes of this paragraph, a person who was living with the original tenant as his or her wife or husband shall be treated as the spouse of the original tenant.

(3) If, immediately after the death of the original tenant, there is, by virtue of sub-paragraph (2) above, more than one person who fulfils the conditions in sub-paragraph (1) above, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be treated as the surviving spouse for the purposes of this paragraph.”

3 In paragraph 3—

- (a) after the words “residing with him” there shall be inserted “ “in the dwelling-house ”;
- (b) for the words “period of 6 months” there shall be substituted “ “period of 2 years ”;
- (c) for the words from “the statutory tenant” onwards there shall be substituted “ “entitled to an assured tenancy of the dwelling-house by succession ”; and
- (d) at the end there shall be added the following sub-paragraph—

“(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.”

4 In paragraph 4 the words “or 3” shall be omitted.

5 In paragraph 5—

- (a) for the words from “or, as the case may be” to “of this Act” there shall be substituted “ “below shall have effect ”; and
- (b) for the words “the statutory tenant” there shall be substituted “ “entitled to an assured tenancy of the dwelling-house by succession ”.

6 For paragraph 6 there shall be substituted the following paragraph—

“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 to an assured tenancy 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.”

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- 7 Paragraph 7 shall be omitted.
- 8 In paragraph 10(1)(a) for the words “paragraphs 6 or 7” there shall be substituted “paragraph 6”.
- 9 At the end of paragraph 11 there shall be inserted the following paragraph—
- “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.”

## PART II

### AMENDMENTS OF SECTION 4 OF <sup>M19</sup>RENT (AGRICULTURE) ACT 1976

#### Marginal Citations

**M19** 1976 c. 80.

- 10 In subsection (2) the words “or, as the case may be, subsection (4)” shall be omitted.
- 11 In subsection (4)—
- (a) in paragraph (b) after the words “residing with him” there shall be inserted “in the dwelling-house” and for the words “period of six months” there shall be substituted “period of 2 years”; and
- (b) for the words from “the statutory tenant” onwards there shall be substituted “entitled to an assured tenancy of the dwelling-house by succession”.
- 12 In subsection (5) for the words “subsections (1), (3) and (4)” there shall be substituted “subsections (1) and (3)” and after that subsection there shall be inserted the following subsections—
- “(5A) For the purposes of subsection (3) above, a person who was living with the original occupier as his or her wife or husband shall be treated as the spouse of the original occupier and, subject to subsection (5B) below, the references in subsection (3) above to a widow and in subsection (4) above to a surviving spouse shall be construed accordingly.
- (5B) If, immediately after the death of the original occupier, there is, by virtue of subsection (5A) above, more than one person who fulfils the conditions in subsection (3) above, such one of them as may be decided by agreement or, in default of agreement by the county court, shall be the statutory tenant by virtue of that subsection.
- (5C) If the original occupier died within the period of 18 months beginning on the operative date, then, for the purposes of subsection (3) above, a person who was residing in the dwelling-house with the original occupier 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 occupier for the period of 2 years immediately before his death; and in this subsection “the operative date” means the date on which Part I of the Housing Act 1988 came into force.”

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### PART III

#### MODIFICATIONS OF SECTION 7 AND SCHEDULE 2

- 13 (1) Subject to sub-paragraph (2) below, in relation to the assured tenancy to which the successor becomes entitled by succession, section 7 of this Act shall have effect as if in subsection (3) after the word “established” there were inserted the words “ “or that the circumstances are as specified in any of Cases 11, 12, 16, 17, 18 and 20 in Schedule 15 to the Rent Act 1977 ”.
- (2) Sub-paragraph (1) above does not apply if, by virtue of section 39(8) of this Act, the assured tenancy to which the successor becomes entitled is an assured agricultural occupancy.
- 14 If by virtue of section 39(8) of this Act, the assured tenancy to which the successor becomes entitled is an assured agricultural occupancy, section 7 of this Act shall have effect in relation to that tenancy as if in subsection (3) after the word “established” there were inserted the words “ “or that the circumstances are as specified in Case XI or Case XII of the Rent (Agriculture) Act 1976 ”.
- 15 (1) In relation to the assured tenancy to which the successor becomes entitled by succession, any notice given to the predecessor for the purposes of Case 13, Case 14 or Case 15 in Schedule 15 to the <sup>M20</sup>Rent Act 1977 shall be treated as having been given for the purposes of whichever of Grounds 3 to 5 in Schedule 2 to this Act corresponds to the Case in question.
- (2) Where sub-paragraph (1) above applies, the regulated tenancy of the predecessor shall be treated, in relation to the assured tenancy of the successor, as “the earlier tenancy” for the purposes of Part IV of Schedule 2 to this Act.

#### Marginal Citations

M20 1977 c. 42.

### SCHEDULE 5

Section 46.

#### HOUSING FOR WALES

#### *Status*

- 1 (1) Housing for Wales is a body corporate and is in this Schedule referred to as “the Corporation”.
- (2) The Corporation is a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.
- (3) The Corporation shall not be regarded—
- (a) as the servant or agent of the Crown; or
  - (b) as enjoying any status, immunity or privilege of the Crown; or
  - (c) as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local;

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and its property shall not be regarded as property of, or held on behalf of, the Crown.

### *Membership*

- 2 (1) The members of the Corporation shall be—
- (a) not less than six nor more than eight persons appointed by the Secretary of State; and
  - (b) the chief executive of the Corporation appointed under paragraph 7 below; and the members appointed under paragraph (a) above are in this Schedule referred to as the “appointed members”.
- (2) Before appointing a person to be a member of the Corporation the Secretary of State shall satisfy himself that he will have no financial or other interest likely to affect prejudicially the exercise of his functions as a member; and the Secretary of State may require a person whom he proposes to appoint to give him such information as he considers necessary for that purpose.
- 3 (1) The appointed members shall hold and vacate office in accordance with the terms of their appointment, subject to the following provisions.
- (2) A member may resign his membership by notice in writing addressed to the Secretary of State.
- (3) The Secretary of State may remove a member from office if he is satisfied that—
- (a) he has been adjudged bankrupt or made an arrangement with his creditors;
  - (b) he has been absent from meetings of the Corporation for a period longer than three consecutive months without the permission of the Corporation; or
  - (c) he is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.
- (4) The Secretary of State shall satisfy himself from time to time with respect to every appointed member that he has no financial or other interest likely to affect prejudicially the exercise of his functions as a member; and he may require an appointed member to give him such information as he considers necessary for that purpose.

### *Chairman and Deputy Chairman*

- 4 (1) The Secretary of State shall appoint one of the appointed members to be Chairman and may appoint one to be Deputy Chairman; and the members so appointed shall hold and vacate those offices in accordance with the terms of their appointment, subject to the following provisions.
- (2) The Chairman or Deputy Chairman may resign by notice in writing addressed to the Secretary of State.
- (3) If the Chairman or Deputy Chairman ceases to be a member of the Corporation, he also ceases to be Chairman or Deputy Chairman.

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### *Remuneration and allowances*

- 5 (1) The [<sup>F43</sup>Corporation] may pay the Chairman, Deputy Chairman and appointed members such remuneration as [<sup>F44</sup>Secretary of State] may, with the consent of the Treasury, determine.
- (2) The Corporation may pay them such reasonable allowances as may be so determined in respect of expenses properly incurred by them in the performance of their duties.

#### **Textual Amendments**

- F43** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 110\(a\)](#)
- F44** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 110\(b\)](#)

### *Pensions*

- 6 (1) The Secretary of State may, with the consent of the Treasury, determine to pay in respect of a person's office as Chairman, Deputy Chairman or appointed member—
- (a) such pension, allowance or gratuity to or in respect of that person on his retirement or death as may be so determined; or
  - (b) such contributions or other payments towards provision for such pension, allowance or gratuity as may be so determined.
- (2) As soon as may be after the making of such a determination the Secretary of State shall lay before each House of Parliament a statement of the amount payable in pursuance of the determination.
- (3) Sub-paragraph (1) above does not apply in the case of a member who has been admitted in pursuance of regulations under section 7 of the <sup>M21</sup>Superannuation Act 1972 to participate in the benefits of a superannuation fund maintained by a local authority.
- (4) In such a case the Secretary of State shall make any payments required to be made to the fund in respect of the member by the employing authority and may make such deductions from his remuneration as the employing authority might make in respect of his contributions to the fund.

#### **Marginal Citations**

- M21** [1972 c. 11.](#)

### *Staff*

- 7 (1) There shall be a chief executive of the Corporation.



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- (2) After consultation with the Chairman or person designated to be chairman of the Corporation, the Secretary of State shall make the first appointment of the chief executive on such terms and conditions as he may, with the consent of the Treasury, determine.
  - (3) The Corporation, with the approval of the Secretary of State, may make subsequent appointments to the office of chief executive on such terms and conditions as the Corporation may, with the approval of the Secretary of State given with the consent of the Treasury, determine.
- 8
  - (1) The Corporation may appoint, on such terms and conditions as it may, with the approval of the Secretary of State, determine, such other employees as it thinks fit.
  - (2) In respect of such of its employees as it may, with the approval of the Secretary of State, determine, the Corporation shall make such arrangements for providing pensions, allowances or gratuities as it may determine; and such arrangements may include the establishment and administration, by the Corporation or otherwise, of one or more pension schemes.
  - (3) The reference in sub-paragraph (2) above to pensions, allowances or gratuities to or in respect of employees of the Corporation includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Corporation's employees who suffer loss of office or employment or loss or diminution of emoluments.
  - (4) The Secretary of State with the consent of the Treasury may, by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, make regulations providing for—
    - (a) the transfer to, and administration by, Housing for Wales of any superannuation fund maintained by the Housing Corporation in terms of the provisions of any scheme made under section 7 of the <sup>M22</sup>Superannuation Act 1972; and
    - (b) the modification, for the purposes of the regulations, of that section or any scheme thereunder.
  - (5) If an employee of the Corporation becomes a member of the Corporation and was by reference to his employment by the Corporation a participant in a pension scheme administered by it for the benefit of its employees—
    - (a) the Corporation may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Corporation whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 6 above; but
    - (b) if the Corporation does so determine, any discretion as to the benefits payable to or in respect of him which the scheme confers on the Corporation shall be exercised only with the approval of the Secretary of State.
  - (6) Any reference in the preceding provisions of this paragraph to the approval of the Secretary of State is a reference to that approval given with the consent of the Treasury.

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### Marginal Citations

**M22** 1972 c. 11.

- 9 (1) Not later than such date as the Secretary of State may determine, the Corporation shall make an offer of employment by it to each person employed immediately before that date by the Housing Corporation in connection with functions in Wales; and any question as to the persons to whom an offer of employment is to be made under this paragraph shall be determined by the Secretary of State.
- (2) The terms of the offer shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (3) An offer made in pursuance of this paragraph shall not be revocable during the period of 3 months commencing with the date on which it is made.
- 10 (1) Where a person becomes an employee of the Corporation in consequence of an offer made under paragraph 9 above, then, for the purposes of [<sup>F45</sup>the Employment Rights Act 1996], his period of employment with the Housing Corporation shall count as a period of employment by the Corporation, and the change of employment shall not break the continuity of the period of employment.
- (2) Where an offer is made in pursuance of paragraph 9 above to any person employed as mentioned in that paragraph, none of the agreed redundancy procedures applicable to such a person shall apply to him; and where that person ceases to be so employed—
- (a) on becoming a member of the staff of the Corporation in consequence of that paragraph, or
- (b) having unreasonably refused the offer,
- <sup>F46</sup> . . . he shall not be treated for the purposes of any scheme under section 24 of the Superannuation Act 1972 or any other scheme as having been retired on redundancy.
- (3) Without prejudice to sub-paragraph (2) above, where a person has unreasonably refused an offer made to him in pursuance of paragraph 9 above, the Housing Corporation shall not terminate that person's employment unless it has first had regard to the feasibility of employing him in a suitable alternative position with it.
- (4) Where a person continues in employment in the Housing Corporation either—
- (a) not having unreasonably refused an offer made to him in pursuance of this paragraph, or
- (b) not having been placed in a suitable alternative position as mentioned in sub-paragraph (3) above,
- he shall be treated for all purposes as if the offer mentioned in paragraph 9 above had not been made.

### Textual Amendments

**F45** Words in **Sch. 5 para. 10(1)** substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 41** (with ss. 191-195, 202)

*Status: Point in time view as at 01/04/1997.*

*Changes to legislation: Housing Act 1988 is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F46** Words in Sch. 5 para. 10(2) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-195, 202)

- 11
- (1) Any dispute as to whether an offer of employment complies with sub-paragraph (2) of paragraph 9 above shall be referred to and be determined by an industrial tribunal.
  - (2) An industrial tribunal shall not consider a complaint referred to it under sub-paragraph (1) above unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer of employment or, in a case where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of 3 months, within such further period as the tribunal considers reasonable.
  - (3) Subject to sub-paragraph (4) below, there shall be no appeal from the decision of an industrial tribunal under this paragraph.
  - (4) An appeal to the Employment Appeal Tribunal may be made only on a question of law arising from the decision of, or in proceedings before, an industrial tribunal under this paragraph.

#### *Proceedings*

- 12
- (1) The quorum of the Corporation and the arrangements relating to its meetings shall, subject to any directions given by the Secretary of State, be such as the Corporation may determine.
  - (2) The validity of proceedings of the Corporation is not affected by any defect in the appointment of any of its members.
- 13
- (1) Where a member of the Corporation is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation—
    - (a) he shall disclose the nature of his interest at a meeting of the Corporation, and the disclosure shall be recorded in the minutes of the Corporation; and
    - (b) he shall not take any part in any decision of the Corporation with respect to the contract.
  - (2) A general notice given by a member at a meeting of the Corporation to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may be made with the company or firm is a sufficient disclosure of his interest for the purposes of this paragraph in relation to a contract made after the date of the notice.
  - (3) A member need not attend in person at a meeting of the Corporation in order to make any disclosure which he is required to make under this paragraph provided he takes reasonable steps to secure that the disclosure is brought up and read at the meeting.
- 14
- (1) The fixing of the Corporation's seal may be authenticated by the signature of the Chairman or of any other person authorised for the purpose.

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- (2) A document purporting to be duly executed under the seal of the Corporation shall be received in evidence and be deemed to be so executed unless the contrary is proved.

## SCHEDULE 6

Section 59.

### AMENDMENTS OF <sup>M23</sup>HOUSING ASSOCIATIONS ACT 1985

#### Marginal Citations

**M23** 1985 c. 69.

## PART I

### AMENDMENTS OF PART I WITH RESPECT TO THE HOUSING CORPORATION, HOUSING FOR WALES AND SCOTTISH HOMES

**F47**<sup>1</sup> .....

#### Textual Amendments

**F47** Sch. 6 Pt. I para. 1 repealed (1.10.1996) by S.I. 1996/2325, art. 4(1)-(3), Sch. 1 Pts. I, II

- 2 Except as provided below, for the words “Housing Corporation”, in each place where they occur in Part I, there shall be substituted “Corporation”.

- [**<sup>F48</sup>3 (1) In section 3 (the register), in subsection (1)—
- (a) for the words “the Housing Corporation” there shall be substituted “each of the Corporations”; and
  - (b) after the word “Corporation”, in the second place where it occurs, there shall be inserted “by which it is maintained”.
- (2) After subsection (1) of that section there shall be inserted the following subsection—
- “(1A) In this Act “register”, in relation to the Corporation, means the register maintained by the Corporation under this section.”
- (3) In subsection (2) of that section the words “of housing associations maintained under this section” shall be omitted.]

#### Textual Amendments

**F48** Sch. 6 para. 3 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

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[<sup>F49</sup>4 (1) In section 5 (registration) for subsection (2) there shall be substituted the following subsection—

“(2) Nothing in subsection (1) shall require the Corporations to establish the same criteria; and each of them may vary any criteria established by it under that subsection.”

(2) For subsection (4) of that section there shall be substituted the following subsection—

“(4) Where at any time a body is, or was, on a register maintained under section 3, then, for all purposes other than rectification of that register, the body shall be conclusively presumed to be, or to have been, at that time a housing association eligible for registration in that register.”]

#### Textual Amendments

**F49** Sch. 6 para. 4 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

[<sup>F50</sup>5 In section 6(4) (removal from register) for paragraphs (a) to (c) there shall be substituted the following paragraphs—

- “(a) a grant under section 41 (housing association grants),
- (b) a grant under section 54 (revenue deficit grants),
- (c) any such payment or loan as is mentioned in paragraph 2 or paragraph 3 of Schedule 1 (grant-aided land),
- (d) a grant or a loan under section 2(2) of the Housing (Scotland) Act 1988,
- (e) a grant under section 50 of the Housing Act 1988 (housing association grants), or
- (f) a grant under section 51 of that Act (revenue deficit grants)”.]

#### Textual Amendments

**F50** Sch. 6 para. 5 repealed (1.10.1996) (E.W.) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

[<sup>F51</sup>6 In section 7 (appeals against removal from the register), in subsection (1) for the words from “to the High Court” onwards there shall be substituted,—

- “(a) where it is a decision of Scottish Homes, to the Court of Session; and
- (b) in any other case, to the High Court”.]

#### Textual Amendments

**F51** Sch. 6 para. 6 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

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- 7 (1) In section 9 (control by Corporation of disposition of land by housing associations) for subsection (1) there shall be substituted the following subsections—
- “(1) Subject to section 10 and sections 81(7), 105(6) and 133(7) of the Housing Act 1988, the consent of the Corporation is required for any disposition of land by a registered housing association.
- (1A) Subject to section 10, the consent of the relevant Corporation is required for any disposition of grant-aided land (as defined in Schedule 1) by an unregistered housing association; and for this purpose “the relevant Corporation” means,—
- (a) if the land is in England, the Housing Corporation;
- (b) if the land is in Scotland, Scottish Homes, and
- (c) if the land is in Wales, Housing for Wales.”
- (2) In subsection (3) of that section—
- (a) for the words “the consent of the Corporation”, in the first place where they occur, there shall be substituted “consent”; and
- (b) for the words “the consent of the Corporation”, in the second place where they occur, there shall be substituted “that consent”.
- (3) After subsection (5) of that section there shall be added—
- “(6) References in this section to consent are references,—
- (a) in the case of the Housing Corporation or Housing for Wales, to consent given by order under the seal of the Corporation; and
- (b) in the case of Scottish Homes, to consent in writing.”
- 8 (1) In section 10 (dispositions excepted from section 9), in subsection (1) for the words from “the Charity Commissioners”, in the second place where they occur, onwards there shall be substituted “before making an order in such a case the Charity Commissioners shall consult,—
- (a) in the case of dispositions of land in England, the Housing Corporation;
- (b) in the case of dispositions of land in Scotland, Scottish Homes; and
- (c) in the case of dispositions of land in Wales, Housing for Wales.”
- (2) In subsection (2) of that section at the end of paragraph (b) there shall be inserted “or
- (c) a letting of land under an assured tenancy or an assured agricultural occupancy, or
- (d) a letting of land in England or Wales under what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8 of Schedule 1 to the Housing Act 1988, or
- (e) a letting of land in Scotland under what would be an assured tenancy but for any of paragraphs 3 to 8 and 12 of Schedule 4 to the Housing (Scotland) Act 1988.”
- [<sup>F529</sup> (1) In section 15 (payments and benefits to committee members, etc.) at the end of subsection (2) there shall be inserted the following paragraphs—

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- “(f) except in the case of housing associations registered in the register maintained by Scottish Homes, payments made or benefits granted by an association in such class or classes of case as may be specified in a determination made by the Corporation with the approval of the Secretary of State;
- (g) in the case of housing associations registered in the register maintained by Scottish Homes, payments made or benefits granted by such an association with the approval of Scottish Homes (which approval may be given only in relation to a class or classes of case).”

(2) After subsection (2) there shall be inserted the following subsection—

[ The Housing Corporation and Housing for Wales may make different  
F53“(2A)] determinations for the purposes of subsection (2)(f) above and, before making such a determination, the Corporation shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and after making such a determination the Corporation shall publish the determination in such manner as it considers appropriate for bringing it to the notice of the associations concerned.”]

#### Textual Amendments

- F52** Sch. 6 para. 9 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)
- F53** Figure substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), Sch. 11 Pt. I para. 111

[F54]10 For section 15A (which was inserted by section 14 of the M24 Housing (Scotland) Act 1986) there shall be substituted the following section—

#### “ Payments etc. in community-based housing associations in Scotland.

(1) In relation to a community-based housing association in Scotland the following are also permitted, notwithstanding section 15(1)—

- (a) payments made by the association in respect of the purchase of a dwelling, or part of a dwelling, owned and occupied by a person described in subsection (2) who is not an employee of the association; but only if—
  - (i) such payments constitute expenditure in connection with housing projects undertaken for the purpose of improving or repairing dwellings; and
  - (ii) the purchase price does not exceed such value as may be placed on the dwelling, or as the case may be part, by the district valuer;
- (b) the granting of the tenancy of a dwelling, or part of a dwelling, to such a person; but only if the person—
  - (i) lives in the dwelling or in another dwelling owned by the association; or
  - (ii) has at any time within the period of twelve months immediately preceding the granting of the tenancy lived

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in the dwelling (or such other dwelling) whether or not it belonged to the housing association when he lived there.

- (2) The persons mentioned in subsection (1) are—
- (a) a committee member or voluntary officer of the association; or
  - (b) a person who at any time in the twelve months preceding the payment (or as the case may be the granting of the tenancy) has been such a member or officer; or
  - (c) a close relative of a person described in paragraph (a) or (b).
- (3) For the purposes of subsection (1), a housing association is “community-based” if—
- (a) prior to the specified date, it was designated as such by the Housing Corporation; or
  - (b) on or after that date, it is designated as such by Scottish Homes;
- and, in this subsection, “specified date” has the same meaning as in section 3 of the Housing (Scotland) Act 1988.
- (4) Scottish Homes—
- (a) shall make a designation under subsection (3) only if it considers that the activities of the housing association relate wholly or mainly to the improvement of dwellings, or the management of improved dwellings, within a particular community (whether or not identified by reference to a geographical area entirely within any one administrative area); and
  - (b) may revoke such a designation (including a designation made by the Housing Corporation under subsection (3) above as originally enacted) if it considers, after giving the association an opportunity to make representations to it as regards such revocation, that the association’s activities have ceased so to relate.”]

#### Textual Amendments

**F54** Sch. 6 para. 10 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

#### Marginal Citations

**M24** 1986 c. 65.

- [<sup>F55</sup>11 In section 16 (general power to remove committee member), in subsection(4) for the words from “order to the High Court” onwards there shall be substituted
- (a) if it is an order of the Housing Corporation or Housing for Wales, to the High Court, and
  - (b) if it is an order of Scottish Homes, to the Court of Session.”]

#### Textual Amendments

**F55** Sch. 6 para. 11 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)



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- [<sup>F56</sup>12 In section 17 (power to appoint new committee members) at the end of subsection (1) there shall be added the words “and the power conferred by paragraph (c) may be exercised notwithstanding that it will cause the maximum number of committee members permissible under the association’s constitution to be exceeded”.]

#### Textual Amendments

- F56** Sch. 6 para. 12 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F57</sup>13 (1) In section 18 (exercise of powers in relation to registered charities), in subsection (1) immediately before the entry relating to section 41 of the 1985 Act there shall be inserted the following entries—  
“section 50 of the Housing Act 1988 (housing association grants),  
section 51 of that Act (revenue deficit grants)”.
- (2) In subsection (3) of that section (appointment by Corporation of trustees of associations which are registered charities: appointments not to exceed maximum number of trustees) the words from “and the Corporation” onwards shall be omitted.]

#### Textual Amendments

- F57** Sch. 6 para. 13 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F58</sup>14 In section 19 (change of rules under the 1965 Act), in subsection (3) for the words “given by order under the seal of the Corporation” there shall be substituted
- (a) in the case of the Housing Corporation or Housing for Wales, by order under the seal of the Corporation; and
- (b) in the case of Scottish Homes, by notice in writing.”]

#### Textual Amendments

- F58** Sch. 6 para. 14 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F59</sup>15 In section 21 (amalgamation and dissolution under the 1965 Act), in subsection (6) for the words from “are to an order” onwards there shall be substituted
- (a) in the case of the Housing Corporation or Housing for Wales, to consent given by order under the seal of the Corporation; and
- (b) in the case of Scottish Homes, to consent given in writing.”]

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#### Textual Amendments

**F59** Sch. 6 para. 15 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F60</sup>16 In section 22 (Corporation’s power to petition for winding up), in subsection (1) after the word “applies” there shall be inserted “(a)” and at the end there shall be added
- (b) on the ground that the association is unable to pay its debts within the meaning of section 518 of the Companies Act 1985.”.]

#### Textual Amendments

**F60** Sch. 6 para. 16 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F61</sup>17 (1) In section 24 (general requirements as to accounts and audit), in subsection (2) after the word “association” there shall be inserted “which is a registered charity”.
- (2) In subsection (5) of that section after the words “different areas” there shall be inserted “or for different descriptions of housing associations or housing activities”.
- (3) After subsection (5) of that section there shall be inserted the following subsection—
- “(6) For the purposes of subsection (5)(a), descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.”.]

#### Textual Amendments

**F61** Sch. 6 para. 17 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F62</sup>18 In section 27 (responsibility for securing compliance with accounting requirements), in subsection (2) at the end of paragraph (c) there shall be added
- (d) section 55(9) of the Housing Act 1988 is not complied with”.]

#### Textual Amendments

**F62** Sch. 6 paras. 3-6, 9-23 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F63</sup>19 (1) In section 28 (Corporation may appoint a person to inquire into the affairs of a registered housing association), in subsection (1) for the words “the Corporation’s staff” there shall be substituted “staff of any of the Corporations” and at the end of that subsection there shall be added “and, if the appointed person considers it necessary for the purposes of the inquiry, he may also inquire into the business of

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any other body which, at a time which the appointed person considers material, is or was a subsidiary or associate of the association concerned”.

- (2) In subsection (2) of that section at the end of paragraph (b) there shall be added
- (c) any person who is, or has been, an officer, agent or member of a subsidiary or associate of the association; or
  - (d) any other person whom the appointed person has reason to believe is or may be in possession of information of relevance to the inquiry”; and in the words following paragraph (b) for the words “the association’s business” there shall be substituted “the business of the association or any other such body as is referred to in subsection (1)”.
- (3) After subsection (3) of that section there shall be inserted the following subsections—
- “(3A) Where, by virtue of subsection (2), any books, accounts or other documents are produced to the appointed person, he may take copies of or make extracts from them.
  - (3B) The appointed person may, if he thinks fit during the course of the inquiry, make one or more interim reports to the Corporation on such matters as appear to him to be appropriate.”
- (4) After subsection (5) of that section there shall be added the following subsections—
- “(6) In this section, in relation to a housing association, “subsidiary” means a company with respect to which one of the following conditions is fulfilled,—
    - (a) the association is a member of the company and controls the composition of the board of directors; or
    - (b) the association holds more than half in nominal value of the company’s equity share capital; or
    - (c) the company is a subsidiary, within the meaning of the Companies Act 1985 or the Friendly and Industrial and Provident Societies Act 1968, of another company which, by virtue of paragraph (a) or paragraph (b), is itself a subsidiary of the housing association;and, in the case of a housing association which is a body of trustees, the reference in paragraph (a) or paragraph (b) to the association is a reference to the trustees acting as such and any reference in subsection (7) to the association shall be construed accordingly.
  - (7) For the purposes of subsection (6)(a), the composition of a company’s board of directors shall be deemed to be controlled by a housing association if, but only if, the association, by the exercise of some power exercisable by the association without the consent or concurrence of any other person, can appoint or remove the holders of all or a majority of the directorships.
  - (8) In this section, in relation to a housing association, “associate” means—
    - (a) any body of which the association is a subsidiary, and
    - (b) any other subsidiary of such a body,and in this subsection “subsidiary” has the same meaning as in the Companies Act 1985 or the Friendly and Industrial and Provident Societies Act 1968 or, in the case of a body which is itself a housing association, has the meaning assigned by subsection (6).

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- (9) In relation to a company which is an industrial and provident society,—
- (a) any reference in subsection (6)(a) or subsection (7) to the board of directors is a reference to the committee of management of the society; and
  - (b) the reference in subsection (7) to the holders of all or a majority of the directorships is a reference to all or a majority of the members of the committee or, if the housing association is itself a member of the committee, such number as together with the association would constitute a majority.”]

**Textual Amendments**

**F63** Sch. 6 para. 19 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F64</sup>20 In section 29(1) (extraordinary audit) after the words “section 28” there shall be inserted “into the affairs of a registered housing association”.]

**Textual Amendments**

**F64** Sch. 6 para. 20 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

- [<sup>F65</sup>21 (1) In section 30 (general powers of Corporation as a result of an inquiry or audit) after subsection (1) there shall be inserted the following subsection—

“(1A) If at any time the appointed person makes an interim report under section 28(3B) and, as a result of that interim report, the Corporation is satisfied that there has been misconduct or mismanagement as mentioned in subsection (1),—

- (a) the Corporation may at that time exercise any of the powers conferred by paragraphs (b) to (d) of that subsection; and
- (b) in relation to the exercise at that time of the power conferred by subsection (1)(b), the reference therein to a period of six months shall be construed as a reference to a period beginning at that time and ending six months after the date of the report under section 28(4).”

- (2) In subsection (4) of that section (appeal against certain orders) for the words from “order to the High Court” onwards there shall be substituted

- (a) if it is an order of the Housing Corporation or Housing for Wales, to the High Court; and
- (b) if it is an order of Scottish Homes, to the Court of Session.”]

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#### Textual Amendments

**F65** Sch. 6 paras. 3-6, 9-23 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

[<sup>F66</sup>22 (1) In section 31 (exercise of powers in relation to registered charities), in subsection (1) immediately before the entry relating to section 41 of the 1985 Act there shall be inserted the following entries—

“section 50 of the Housing Act 1988 (housing association grants),  
section 51 of that Act (revenue deficit grants)”.

(2) At the end of subsection (2)(b) of that section there shall be added the words “and such other activities (if any) of the association as are incidental to or connected with its housing activities”.]

#### Textual Amendments

**F66** Sch. 6 para. 22 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

[<sup>F67</sup>23 In section 33 (recognition of central association), in subsection (1) after “housing associations” there shall be inserted “in Great Britain or in any part of Great Britain”.]

#### Textual Amendments

**F67** Sch. 6 paras. 3-6, 9-23 repealed (E.W.) (1.10.1996) by 1996 c. 52, ss. 227, 231(4)(b), Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

24 After section 33 there shall be inserted the following section—

#### “33A Provision of services between the Corporations.

Any of the Corporations may enter into an agreement with the others or either of them for the provision of services of any description by the one to the other or others on such terms, as to payment or otherwise, as the parties to the agreement consider appropriate.”

25 In section 39 (minor definitions) before the definition of “mental disorder” there shall be inserted—

“ “assured tenancy” has, in England and Wales, the same meaning as in Part I of the Housing Act 1988 and, in Scotland, the same meaning as in Part II of the Housing (Scotland) Act 1988;

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

26 In section 40 (index of defined expressions in Part I)—

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- (a) after the entry relating to “appropriate registrar” there shall be inserted—
- “assured agricultural occupancy” section 39
- “assured tenancy” section 39”;
- <sup>F68</sup>(b) .....
- <sup>F69</sup>(c) in the entry beginning “register”, in the second column for “3(2)” there shall be substituted “3”.]

#### Textual Amendments

- F68** Sch. 6 para. 26(b) repealed (1.10.1996) by S.I. 1996/2325, art. 4, Sch. 1 Pts. I, II
- F69** Sch. 6 para. 26(c) repealed (E.W.) (1.10.1996) by S.I. 1996/2325, art. 4, Sch. 1 Pt. I

## PART II

### AMENDMENTS OF PART II WITH RESPECT TO THE HOUSING CORPORATION AND HOUSING FOR WALES

- 27 (1) In section 63 (building society advances) for the words “the Housing Corporation”, in each place where they occur in subsections (1) and (2), there shall be substituted “one of the Corporations” and in subsection (1) (b) for the words “the Corporation” there shall be substituted “that one of the Corporations which is concerned”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) In this section “the Corporations” means the Housing Corporation and Housing for Wales”.
- 28 (1) In section 69 (power to vary or terminate certain agreements) at the end of subsection (1)(a) there shall be added “(including such an agreement under which rights and obligations have been transferred to Housing for Wales)”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) In the case of an agreement under which rights and obligations have been transferred to Housing for Wales, the reference to a party to the agreement includes a reference to Housing for Wales.”
- 29 In section 69A (land subject to housing management agreement) for the words “housing association grant, revenue deficit grant or hostel deficit grant” there shall be substituted “grant under section 50 (housing association grant) or section 51 (revenue deficit grant) of the Housing Act 1988”.
- 30 (1) In Part I of Schedule 5 (residual subsidies)—
- (a) in paragraph 5(3) the words “at such times and in such places as the Treasury may direct” and “with the approval of the Treasury” shall be omitted; and
- (b) at the end of paragraph 6(2)(b) there shall be added “or Housing for Wales”.
- (2) In Part II of that Schedule, in paragraph 5(3) the words “at such times and in such places as the Treasury may direct” and “with the approval of the Treasury” shall be omitted.

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### PART III

#### AMENDMENTS OF PART III WITH RESPECT TO THE HOUSING CORPORATION AND HOUSING FOR WALES

- 31 (1) In section 74 (constitution of Housing Corporation etc.), in subsection (1) after the words “Housing Corporation” there shall be inserted “and Housing for Wales, each of”.
- (2) In subsection (2) of that section for the words “the Corporation” there shall be substituted “the Housing Corporation”.
- (3) At the end of that section there shall be inserted the following subsections—
- “(3) In this Part “registered housing association” in relation to the Corporation, means a housing association registered in the register maintained by the Corporation.
- (4) In this Part,—
- (a) in relation to land in Wales held by an unregistered housing association, “the Corporation” means Housing for Wales; and
- (b) in relation to land outside Wales held by such an association, “the Corporation” means the Housing Corporation.”
- [<sup>F70</sup>32 In section 75 (general functions), in subsection (1)(c) for the words “a register of housing associations” there shall be substituted “the register of housing associations referred to in section 3”.]

#### Textual Amendments

**F70** Sch. 6 para. 32 repealed (E.W.) (1.10.1996) by S.I. 1996/2325, art. 4, Sch. 1 Pt. I

- 33 At the end of section 77 (advisory service) there shall be added the following subsection—
- “(3) The powers conferred on the Corporation by subsections (1) and (2) may be exercised by the Housing Corporation and Housing for Wales acting jointly”.
- 34 (1) In section 83 (power to guarantee loans), in subsection (3) (maximum amount outstanding in respect of loans etc.) for the words “the Corporation”, in each place where they occur, there shall be substituted “the Housing Corporation”.
- (2) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) The aggregate amount outstanding in respect of—
- (a) loans for which Housing for Wales has given a guarantee under this section, and
- (b) payments made by Housing for Wales in meeting an obligation arising by virtue of such a guarantee and not repaid to Housing for Wales,
- shall not exceed £30 million or such greater sum not exceeding £50 million as the Secretary of State may specify by order made with the approval of the Treasury”.

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- (3) In subsection (4) of that section (procedure for orders of Secretary of State) after the words “subsection (3)” there shall be inserted “or subsection (3A)”.
- 35 (1) In section 93 (limit on borrowing), in subsection (2) for the words from “shall not exceed” onwards there shall be substituted “shall not exceed the limit appropriate to the Corporation under subsection (2A)”.
- (2) At the end of subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The limit referred to in subsection (2) is,—
- (a) in the case of the Housing Corporation, £2,000 million or such greater sum not exceeding £3,000 million as the Secretary of State may specify by order made with the consent of the Treasury; and
- (b) in the case of Housing for Wales, £250 million or such greater sum not exceeding £300 million as the Secretary of State may specify by order made with the consent of the Treasury.”
- (3) In subsections (3) to (5) of that section for “(2)”, in each place where it occurs, there shall be substituted “(2A)”.
- [<sup>F71</sup>36 In section 106(1) (minor definitions: general) for the definition of “housing activities” there shall be substituted the following—
- ““housing activities”, in relation to a registered housing association, means all its activities in pursuance of such of its purposes, objects or powers as are of a description mentioned in section 1(1) (a) or subsections (2) to (4) of section 4.”]

#### Textual Amendments

**F71** Sch. 6 para. 36 repealed (E.W.) (1.1.1996) by S.I. 1996/2325, art. 4, Sch. 1 Pt. I

- 37 In Schedule 6, paragraph 3(3)(b) shall be omitted.

## SCHEDULE 7

Section 62(5).

### HOUSING ACTION TRUSTS: CONSTITUTION

#### *Members*

- 1 A housing action trust (in this Schedule referred to as a “trust”) shall consist of a chairman and such number of other members (not less than five but not exceeding eleven) as the Secretary of State may from time to time appoint.
- 2 (1) In appointing members of a trust the Secretary of State shall have regard to the desirability of securing the services of persons who live in or have special knowledge of the locality in which the designated area is situated and before appointing any such person as a member he shall consult every local housing authority any part of whose district is included in the designated area.



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- (2) Before appointing a person to be a member of a trust the Secretary of State shall satisfy himself that that person will have no financial or other interest likely to affect prejudicially the exercise of his functions as a member; and the Secretary of State may require a person whom he proposes to appoint to give him such information as he considers necessary for that purpose.
- (3) For the purposes of sub-paragraph (2) above, the fact that a person is or may become a tenant of a trust shall not be regarded as giving to that person an interest likely to affect prejudicially the exercise of his functions as a member.
- (4) The Secretary of State shall appoint one of the members to be chairman and, if he thinks fit, another to be deputy chairman of the trust.

3 Subject to the following provisions of this Schedule, each member of the trust as such and the chairman and deputy chairman as such shall hold and vacate office in accordance with his appointment.

4 If the chairman or deputy chairman ceases to be a member of the trust, he shall also cease to be chairman or deputy chairman, as the case may be.

5 Any member of the trust may, by notice in writing addressed to the Secretary of State, resign his membership; and the chairman or deputy chairman may, by like notice, resign his office as such.

6 If the Secretary of State is satisfied that a member of the trust (including the chairman or deputy chairman)—

- (a) has become bankrupt or made an arrangement with his creditors, or
- (b) has been absent from meetings of the trust for a period longer than three consecutive months without the permission of the trust, or
- (c) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member,

the Secretary of State may remove him from his office.

7 A member of the trust who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for reappointment.

#### *Remuneration*

8 The trust may pay to each member such remuneration and allowances as the Secretary of State may <sup>F72</sup> . . . determine.

#### **Textual Amendments**

**F72** Words in [Sch. 7 para. 8](#) repealed (1.10.1996) by [1996 c. 52, ss. 222, 227](#), [Sch. 18 Pt. IV para. 22\(1\)\(e\) \(3\)](#), [Sch. 19 Pt. XIII](#); [S.I. 1996/2402, art. 3](#) (subject to transitional provisions in [Sch.](#))

9 The trust may pay or make provision for paying, to or in respect of any member, such sums by way of pensions, allowances and gratuities as the Secretary of State may <sup>F73</sup> . . . determine and, <sup>F73</sup> . . . , the Secretary of State may undertake to meet any liabilities arising in respect of such pensions, allowances or gratuities after the dissolution of the trust.

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#### Textual Amendments

**F73** Words in Sch. 9 para. 9 repealed (1.10.1996) by 1996 c. 52, ss. 222, 227, Sch. 18 Pt. IV para. 22(1)(e) (3), Sch. 19 Pt. XIII; S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

- 10 Where a person ceases to be a member of a trust and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the trust may make to him payment of such amount as the Secretary of State may<sup>F74</sup> . . . determine.

#### Textual Amendments

**F74** Words in Sch. 7 para. 10 repealed (1.10.1996) by 1996 c. 52, ss. 222, 227, Sch. 18 Pt. IV para. 22(1)(e) (3), Sch. 19 Pt. XIII; S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

#### *Staff*

- 11 (1) There shall be a chief officer of the trust who shall be appointed by the trust with the approval of the Secretary of State.
- (2) The chief officer shall be responsible to the trust for the general exercise of the trust's functions.
- (3) The trust may appoint such number of other employees as may be approved by the Secretary of State.
- (4) References in paragraph 12 below to employees of the trust include references to the chief officer as well as other employees.
- 12 (1) Employees of the trust shall be appointed at such remuneration and on such other terms and conditions as the trust may determine.
- (2) The trust may pay such pensions, allowances or gratuities as it may determine to or in respect of any of its employees, make such payments as it may determine towards the provision of pensions, allowances or gratuities to or in respect of any of its employees or provide and maintain such schemes as it may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of its employees; and<sup>F75</sup> . . . the Secretary of State may undertake to meet any liabilities arising in respect of such pensions, allowances or gratuities after the dissolution of the trust.
- (3) The reference in sub-paragraph (2) above to pensions, allowances or gratuities to or in respect of any of the trust's employees includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the trust's employees who suffer loss of office or employment or loss or diminution of emoluments.
- (4) If an employee of the trust becomes a member and was by reference to his employment by the trust a participant in a pension scheme maintained by the trust for the benefit of any of its employees, the trust may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the trust whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 9 above.

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- (5) A determination of the trust for the purposes of this paragraph is ineffective unless made with the approval of the Secretary of State<sup>F75</sup> . . .

#### Textual Amendments

**F75** Words in Sch. 7 para. 12(2)(5) repealed (1.10.1996) by 1996 c. 52, ss. 222, 227, Sch. 18 Pt. IV para. 22(1)(e)(3); S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

#### *Meetings and proceedings*

- 13 The quorum of the trust and the arrangements relating to its meetings shall, subject to any directions given by the Secretary of State, be such as the trust may determine.
- 14 The validity of any proceedings of the trust shall not be affected by any vacancy among its members or by any defect in the appointment of any of its members.

#### *Instruments, etc.*

- 15 The fixing of the seal of the trust shall be authenticated by the signature of the chairman or of some other member authorised either generally or specially by the trust to act for that purpose.
- 16 Any document purporting to be a document duly executed under the seal of the trust shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- 17 A document purporting to be signed on behalf of a trust shall be received in evidence and shall, unless the contrary is proved, be deemed to be so signed.

#### *House of Commons disqualification*

- 18 In Part III of Schedule 1 to the<sup>M25</sup>House of Commons Disqualification Act 1975 (disqualifying offices), there shall be inserted at the appropriate place the following entry— “ Any member, in receipt of remuneration, of a housing action trust (within the meaning of Part III of the Housing Act 1988). ”

#### Marginal Citations

**M25** 1975 c. 24.

## SCHEDULE 8

Section 62(5).

### HOUSING ACTION TRUSTS: FINANCE ETC.

#### PART I

##### PRELIMINARY

- 1 (1) References in this Schedule to a trust are to a housing action trust.

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- (2) The financial year of a trust shall begin with 1 April and references to a financial year in relation to a trust shall be construed accordingly.

## PART II

### FINANCE

#### *Financial duties*

- 2 (1) After consultation with a trust, the Secretary of State may, with the Treasury's approval, determine the financial duties of the trust, and different determinations may be made in relation to different trusts or for different functions and activities of the same trust.
- (2) The Secretary of State shall give the trust notice of every determination, and a determination may—
- (a) relate to a period beginning before the date on which it is made;
  - (b) contain incidental or supplementary provisions; and
  - (c) be varied by a subsequent determination.

#### *Government grants*

- 3 (1) The Secretary of State may (out of moneys provided by Parliament and with the consent of the Treasury) pay to a trust, in respect of the exercise of its functions and in respect of its administrative expenses, such sums as he may (with the approval of the Treasury) determine.
- (2)
- The payment may be made on such terms as the Secretary of State (with the approval of the Treasury) provides.

#### *Borrowing*

- 4 (1) A trust may borrow temporarily, by way of overdraft or otherwise, such sums as it may require for meeting its obligations and discharging its functions—
- (a) in sterling from the Secretary of State; or
  - (b) with the consent of the Secretary of State, or in accordance with any general authority given by the Secretary of State, either in sterling or in currency other than sterling from a person other than the Secretary of State.
- (2) A trust may borrow otherwise than by way of temporary loan such sums as the trust may require—
- (a) in sterling from the Secretary of State; or
  - (b) with the consent of the Secretary of State, in a currency other than sterling from a person other than the Secretary of State.
- (3) The Secretary of State may lend to a trust any sums it has power to borrow from him under sub-paragraph (1) or sub-paragraph (2) above.
- (4)

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The Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable him to make loans under sub-paragraph (3) above.

(5) Loans made under sub-paragraph (3)

above shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may determine.

(6) All sums received by the Secretary of State under sub-paragraph (5)

above shall be paid into the National Loans Fund.

(7)

References in this paragraph to the Secretary of State are references to him acting with the approval of the Treasury.

#### *Guarantees*

- 5
- (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums which a trust borrows from a person or body other than the Secretary of State.
  - (2) Immediately after a guarantee is given under this paragraph, the Treasury shall lay a statement of the guarantee before each House of Parliament; and, where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
  - (3) Any sums required by the Treasury for fulfilling a guarantee under this paragraph shall be charged on and issued out of the Consolidated Fund.
  - (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the trust shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rates as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
  - (5) Any sums received by the Treasury in pursuance of sub-paragraph (4) above shall be paid into the Consolidated Fund.

#### *Assumed debt*

- 6
- (1) On any acquisition to which this paragraph applies, a trust shall assume a debt to the Secretary of State of such amount as may be notified to the trust in writing by him, with the approval of the Treasury.
  - (2) This paragraph applies to any acquisition by the trust of property held—
    - (a) by or on behalf of the Crown; or

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- (b) by a company all of whose shares are held by or on behalf of the Crown or by a wholly owned subsidiary of such a company.
- (3) Subject to sub-paragraph (4) below, the amount to be notified is the aggregate of the following—
  - (a) the consideration given when the property was first brought into public ownership; and
  - (b) the costs and expenses of and incidental to its being brought into public ownership.
- (4) If it appears to the Secretary of State that there has been such a change in circumstances since the property was first brought into public ownership that its true value would not be reflected by reference to the consideration mentioned in sub-paragraph (3) above, the Secretary of State, with the approval of the Treasury, shall determine the amount to be notified.
- (5) The rate of interest payable on the debt assumed by a trust under this paragraph, and the date from which interest is to begin to accrue, the arrangements for paying off the principal, and the other terms of the debt shall be such as the Secretary of State, with the approval of the Treasury, may from time to time determine.
- (6) Different rates and dates may be determined under sub-paragraph (5) above with respect to different portions of the debt.
- (7) Any sums received by the Secretary of State under sub-paragraph (5) above shall be paid into the National Loans Fund.

*Surplus funds*

- 7 (1) Where it appears to the Secretary of State, after consultation with the Treasury and the trust, that a trust has a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for its future requirements, the trust shall, if the Secretary of State with the approval of the Treasury and after consultation with the trust so directs, pay to the Secretary of State such sum not exceeding the amount of that surplus as may be specified in the direction.
- (2)
- Any sum received by the Secretary of State under this paragraph shall, subject to sub-paragraph (4) below, be paid into the Consolidated Fund.
- (3)
- The whole or part of any payment made to the Secretary of State by a trust under sub-paragraph (1) above shall, if the Secretary of State with the approval of the Treasury so determines, be treated as made by way of repayment of such part of the principal of loans under paragraph 4(3) above, and as made in respect of the repayments due at such times, as may be so determined.
- (4) Any sum treated under sub-paragraph (3) above as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.

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#### *Financial limits*

- 8 (1) The aggregate amount of the sums mentioned in sub-paragraph (2) below shall not exceed such sum as the Secretary of State, with the consent of the Treasury, may by order made by statutory instrument specify.
- (2) The sums are—
- (a) sums borrowed by all trusts under paragraph 4 above minus repayments made in respect of the sums; and
  - (b) sums issued by the Treasury in fulfilment of guarantees under paragraph 5 above of debts of all trusts.
- (3) No order shall be made under sub-paragraph (1) above unless a draft of it has been laid before, and approved by a resolution of, the House of Commons.

#### *Grants and loans: accounts*

- 9 (1) The Secretary of State shall prepare in respect of each financial year an account—
- (a) of the sums paid to trusts under paragraph 3 above;
  - (b) of the sums issued to him under paragraph 4(4) above and the sums received by him under paragraph 4(5) above and of the disposal by him of those sums; and
  - (c) of the sums paid into the Consolidated Fund or National Loans Fund under paragraph 7 above.
- (2) The Secretary of State shall send the account to the Comptroller and Auditor General before the end of the month of November next following the end of that year.
- (3) The Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (4) The form of the account and the manner of preparing it shall be such as the Treasury may direct.

### **PART III**

#### **GENERAL ACCOUNTS ETC.**

#### *Accounts*

- 10 (1) A trust shall keep proper accounts and other records in relation to them.
- (2) The accounts and records shall show, in respect of the financial year to which they relate, a true and fair view of the trust's activities.
- (3) A trust shall prepare in respect of each financial year a statement of accounts complying with any requirement which the Secretary of State has (with the consent of the Treasury) notified in writing to the trust relating to—
- (a) the information to be contained in the statement;
  - (b) the manner in which the information is to be presented; and
  - (c) the methods and principles according to which the statement is to be prepared.

*Status: Point in time view as at 01/04/1997.*

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- (4) Subject to any requirement notified to the trust under sub-paragraph (3) above, in preparing any statement of accounts in accordance with that sub-paragraph the trust shall follow, with respect to each of the matters specified in paragraphs (a) to (c) of that sub-paragraph, such course as may for the time being be approved by the Secretary of State with the consent of the Treasury.
- (5) Section 6 of the <sup>M26</sup>National Audit Act 1983 (which enables the Comptroller and Auditor General to conduct examinations into the economy, efficiency and effectiveness with which certain departments, authorities and bodies have used their resources) shall apply to a trust.

**Marginal Citations**  
M26 1983 c. 44.

*Audit*

- 11 (1) The trust’s accounts and statements of accounts shall be audited by an auditor to be appointed annually by the Secretary of State in relation to the trust.
- [<sup>F76</sup>(2) A person shall not be appointed under sub-paragraph (1) above unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.]
- (3) A person shall not be qualified for appointment under sub-paragraph (1) above if the person is—
  - (a) a member, officer or servant of the trust,
  - (b) a partner of, or employed by, a member, officer or servant of the trust, <sup>F77</sup> . . .
  - <sup>F77</sup>(c) . . . . .

**Textual Amendments**  
F76 Sch. 8 para. 11(2) substituted by S.I. 1991/1997, reg. 2, Sch. para. 71(a) (with reg. 4)  
F77 Words in Sch. 8 para. 11(3) omitted by virtue of S.I. 1991/1997, reg. 2, Sch. para. 71(b) (with reg. 4)

*Transmission to Secretary of State*

- 12 As soon as the accounts and statement of accounts of the trust for any financial year have been audited, the trust shall send to the Secretary of State a copy of the statement, together with a copy of any report made by the auditor on the statement or on the accounts.

*Reports*

- 13 (1) As soon as possible after the end of each financial year, a trust shall make to the Secretary of State a report dealing generally with the trust’s operations during the year, and shall include in the report a copy of its audited statement of accounts for that year.



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- (2) Without prejudice to the generality of sub-paragraph (1) above, a report shall give particulars of the name and address of every person who, in the financial year to which the report relates, has received financial assistance from the trust under section 71(1) of this Act, together with particulars of the form of the assistance, the amount involved and the purpose for which the assistance was given.
- (3) The Secretary of State shall lay a copy of the report before each House of Parliament.

### *Information*

- 14 Without prejudice to paragraph 13 above, a trust shall provide the Secretary of State with such information relating to its activities as he may require, and for that purpose shall permit any person authorised by the Secretary of State to inspect and make copies of the accounts, books, documents or papers of the trust and shall afford such explanation of them as that person or the Secretary of State may reasonably require.

## SCHEDULE 9

Section 76.

### ORDERS VESTING LAND IN HOUSING ACTION TRUSTS

#### PART I

##### PROVISIONS SUPPLEMENTING SECTION 76(1)—(3)

- 1 In this Part of this Schedule “the principal section” means section 76 of this Act.
- 2 (1) In the principal section and paragraph 3 below, “statutory undertakers” and “statutory undertaking” shall be construed in accordance with paragraph 4 below.  
(2) In the principal section and the following provisions of this Part of this Schedule, “wholly-owned subsidiary” has the meaning given by section 736 of the Companies Act 1985.
- 3 (1) In subsection (3) of the principal section the reference to the Secretary of State and the appropriate Minister—
  - (a) in relation to statutory undertakers who are also statutory undertakers for the purposes of any provision of Part XI of [<sup>F78</sup>the Town and Country Planning Act 1990], shall be construed as if contained in that Part; and
  - (b) in relation to any other statutory undertakers shall be construed in accordance with an order made by the Secretary of State.  
(2) If, for the purposes of subsection (3) of the principal section, any question arises as to which Minister is the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury.

*Status: Point in time view as at 01/04/1997.*

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#### Textual Amendments

**F78** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(5\)\(a\)](#)

- 4 In the principal section and, except where the context otherwise requires, in paragraph 3 above “statutory undertakers” means—
- (a) persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, hydraulic power or water;
  - (b) British Shipbuilders, the British Steel Corporation, the Civil Aviation Authority, <sup>F79</sup> . . . , <sup>F80</sup> . . . , the Post Office and any other authority, body or undertakers which, by virtue of any enactment, are to be treated as statutory undertakers for any of the purposes of [<sup>F81</sup>the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990];
  - (c) any other authority, body or undertakers specified in an order made by the Secretary of State; and
  - (d) any wholly-owned subsidiary of any person, authority, body or undertakers mentioned in sub-paragraphs (a) and (b) above or specified in an order made under sub-paragraph (c) above;
- and “statutory undertaking” shall be construed accordingly.

#### Textual Amendments

- F79** Words in [Sch. 9 Pt. I para. 4\(b\)](#) repealed (31.10.1994) by [1994 c. 21, ss. 7, 67, Sch. 9 para. 76, Sch. 11 Pt. II](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F80** Words in [Sch. 9 Pt. I para. 4\(b\)](#) repealed (6.1.1992) by [British Technology Group Act 1991 \(c. 66, SIF 64\), s. 17\(2\), Sch. 2, Pt. I; S.I. 1991/2721, art. 2](#)
- F81** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(5\)\(b\)](#)

- 5 An order under any provision of this Part of this Schedule shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## PART II

### MODIFICATIONS OF ENACTMENTS

#### *Land Compensation Act 1961*

- 6 The <sup>M27</sup> Land Compensation Act 1961 shall have effect in relation to orders under section 76 of this Act subject to the modifications in paragraphs 7 to 11 below.

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#### Marginal Citations

M27 1961 c.33.

- 7 References to the date of service of a notice to treat shall be treated as references to the date on which an order under section 76 of this Act comes into force.
- 8 Section 17(2) shall be treated as if for the words “the authority proposing to acquire it have served a notice to treat in respect thereof, or an agreement has been made for the sale thereof to that authority” there were substituted the words “an order under section 76 of the Housing Act 1988 vesting the land in which the interest subsists in a housing action trust has come into force, or an agreement has been made for the sale of the interest to such a trust”.
- 9 In section 22—
- (a) subsection (2) shall be treated as if at the end of paragraph (c) there were added the words “or
  - (cc) where an order has been made under section 76 of the Housing Act 1988 vesting the land in which the interest subsists in a housing action trust”; and
  - (b) subsection (3) shall be treated as if, in paragraph (a), after the words “paragraph (b)” there were inserted “or paragraph (cc)”.
- 10 Any reference to a notice to treat in section 39(2) shall be treated as a reference to an order under section 76 of this Act.
- 11 In Schedule 2, paragraph 1(2) shall be treated as if at the end there were added the following paragraph—
- “(k) an acquisition by means of an order under section 76 of the Housing Act 1988 vesting land in a housing action trust.”

#### *Compulsory Purchase (Vesting Declarations) Act 1981*

- 12 (1) In Schedule 2 to the Compulsory Purchase (Vesting Declarations) Act 1981 (vesting of land in urban development corporation), in paragraph I after the word “declaration” there shall be inserted “ or under section 76 of the Housing Act 1988 (subsection (5) of which contains similar provision) ”.
- (2) At the end of sub-paragraph (a) of paragraph 3 of that Schedule there shall be added “ or, as the case may be, the housing action trust ”.

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## SCHEDULE 10

Section 78.

### HOUSING ACTION TRUSTS: LAND

#### PART I

##### MODIFICATIONS OF ACQUISITION OF LAND ACT 1981

- 1 The <sup>M28</sup>Acquisition of Land Act 1981 (in this Part referred to as “the 1981 Act”) shall apply in relation to the compulsory acquisition of land under section 77 of this Act with the modifications made by this Part of this Schedule.

#### Marginal Citations

**M28** 1981 c. 67.

- 2 (1) Where a compulsory purchase order authorising the acquisition of any land is submitted to the Secretary of State in accordance with section 2(2) of the 1981 Act then, if the Secretary of State—
- (a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised in it, but
  - (b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land,
- he may confirm the order so far as it relates to the land mentioned in paragraph (a) above, and give directions postponing the consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.
- (2) Where the Secretary of State gives directions under sub-paragraph (1) above, the notices required by section 15 of the 1981 Act to be published and served shall include a statement of the effect of the directions.
- 3 The reference in section 17(3) of the 1981 Act to statutory undertakers includes a reference to a housing action trust.

#### PART II

##### LAND: SUPPLEMENTARY

##### *Extinguishment of rights over land*

- 4 (1) Subject to this paragraph, on an order under section 76 of this Act coming into force or the completion by a housing action trust of a compulsory acquisition of land under Part III of this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and any such apparatus shall vest in the trust.
- (2) Sub-paragraph (1) above does not apply—

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- (a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of carrying on their undertaking; or
  - (b) to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunications apparatus kept installed for the purposes of any such system.
- (3) In respect of any right or apparatus not falling within sub-paragraph (2) above, sub-paragraph (1) above shall have effect subject—
  - (a) to any direction given by the Secretary of State before the coming into force of the order (or, as the case may be, by the trust before the completion of the acquisition) that sub-paragraph (1) above shall not apply to any right or apparatus specified in the direction, and
  - (b) to any agreement which may be made (whether before or after the coming into force of the order or completion of the acquisition) between the Secretary of State (or trust) and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this paragraph shall be entitled to compensation from the trust.
- (5) Any compensation payable under this paragraph shall be determined in accordance with the <sup>M29</sup>Land Compensation Act 1961.

#### Marginal Citations

**M29** 1961 c. 33.

#### *Power to override easements*

- 5 (1) The erection, construction or carrying out, or maintenance of any building or work on land which has been vested in or acquired by a housing action trust for the purposes of Part III of this Act, whether done by the trust or by any other person, is authorised by virtue of this paragraph if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this paragraph applies, or involves a breach of a restriction as to the user of land arising by virtue of a contract.
- (2) Nothing in sub-paragraph (1) above shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.
- (3) This paragraph applies to the following interests and rights, that is to say, any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (4) In respect of any interference or breach in pursuance of sub-paragraph (1) above, compensation shall be payable under section 7 or section 10 of the <sup>M30</sup>Compulsory Purchase Act 1965, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious

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affection where the compensation is to be estimated in connection with a purchase by a housing action trust or the injury arises from the execution of works on land acquired by such a trust.

- (5) Where a person other than the housing action trust by or in whom the land in question was acquired or vested is liable to pay compensation by virtue of sub-paragraph (4) above and fails to discharge that liability, the liability shall (subject to sub-paragraph (6) below) be enforceable against the trust.
- (6) Nothing in sub-paragraph (5) above shall be construed as affecting any agreement between the trust and any other person for indemnifying the trust against any liability under that sub-paragraph.
- (7) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in sub-paragraph (1) above.
- (8) Nothing in this paragraph shall be construed as authorising any act or omission on the part of a housing action trust, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the trust or body.

#### **Marginal Citations**

**M30** 1965 c. 56.

#### *Consecrated land and burial grounds*

- 6 (1) Any consecrated land, whether including a building or not, which has been vested in or acquired by a housing action trust for the purposes of Part III of this Act may (subject to the following provisions of this paragraph) be used by the trust, or by any other person, in any manner in accordance with planning permission, notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land.
- (2) Sub-paragraph (1) above does not apply to land which consists or forms part of a burial ground.
- (3) Any use of consecrated land authorised by sub-paragraph (1) above, and the use of any land, not being consecrated land, vested or acquired as mentioned in that sub-paragraph which at the time of acquisition included a church or other building used or formerly used for religious worship or the site thereof, shall be subject to compliance with the prescribed requirements with respect to the removal and reinterment of any human remains, and the disposal of monuments and fixtures and furnishings; and, in the case of consecrated land, shall be subject to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on the land.
- (4) Any regulations made for the purposes of sub-paragraph (3) above—
  - (a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the like control as is imposed by law in the case of a similar use authorised by an enactment not

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- contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;
- (b) shall contain requirements relating to the disposal of any such land as is mentioned in sub-paragraph (3) above such as appear to the Secretary of State requisite for securing that the provisions of that sub-paragraph shall be complied with in relation to the use of the land; and
- (c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.
- (5) Any land consisting of a burial ground or part of a burial ground which has been vested in or acquired by a housing action trust for the purposes of Part III of this Act may be used by the trust in any manner in accordance with planning permission, notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.
- (6) Sub-paragraph (5) above shall not have effect in respect of any land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains and the disposal of monuments in or upon the land have been complied with.
- (7) Provision shall be made by any regulations made for the purposes of sub-paragraphs (3) and (6) above—
- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments; and
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed; and
- (c) for requiring compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal and the place and manner of reinterment of any human remains and the disposal of any monuments; and
- (d) for requiring compliance with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.
- (8) Subject to the provisions of any such regulations as are referred to in sub-paragraph (7) above, no faculty shall be required for the removal and reinterment in accordance with the regulations of any human remains or for the removal or disposal of any monuments, and the provisions of section 25 of the <sup>M31</sup>Burial Act 1857 (which prohibits the removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations.
- (9) Any power conferred by this paragraph to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection,

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construction or carrying out of any building or work, or the maintenance of any building or work, or not.

- (10) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in sub-paragraph (1) or sub-paragraph (5) above.
- (11) Sub-paragraph (8) of paragraph 5 above shall apply in relation to this paragraph as it applies in relation to that.
- (12) In this paragraph “burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and “monument” includes a tombstone or other memorial.
- (13) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State.
- (14) The power to make regulations under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Marginal Citations**

**M31** 1857 c. 81.

#### *Open spaces*

- 7 (1) Any land being, or forming part of, a common, open space or fuel or field garden allotment, which has been vested in or acquired by a housing action trust for the purposes of Part III of this Act may be used by the trust, or by any other person, in any manner in accordance with planning permission, notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.
- (2) Nothing in this paragraph shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in sub-paragraph (1) above.
- (3) Sub-paragraph (8) of paragraph 5 above shall apply in relation to this paragraph as it applies in relation to that.

#### *Displacement of persons*

- 8 If the Secretary of State certifies that possession of a house which has been vested in or acquired by a housing action trust for the purposes of Part III of this Act and is for the time being held by that trust for the purposes for which it was acquired, is immediately required for those purposes, nothing in the <sup>M32</sup>Rent (Agriculture) Act 1976 or the <sup>M33</sup>Rent Act 1977 or this Act shall prevent that trust from obtaining possession of the house.



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#### Marginal Citations

**M32** 1976 c. 80.

**M33** 1977 c. 42.

### *Extinguishment of public rights of way*

- 9
- (1) Where any land has been vested in or acquired by a housing action trust for the purposes of Part III of this Act and is for the time being held by that trust for those purposes, the Secretary of State may by order extinguish any public right of way over the land.
  - (2) Where the Secretary of State proposes to make an order under this paragraph, he shall publish in such manner as appears to him to be requisite a notice—
    - (a) stating the effect of the order, and
    - (b) specifying the time (not being less than 28 days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made,and shall serve a like notice—
    - (i) on the local planning authority in whose area the land is situated; and
    - (ii) on the relevant highway authority.
  - (3) In sub-paragraph (2) above “the relevant highway authority” means any authority which is a highway authority in relation to the right of way proposed to be extinguished by the order under this paragraph.
  - (4) Where an objection to a proposal to make an order under this paragraph is duly made and is not withdrawn, the provisions of paragraph 10 below shall have effect in relation to the proposal.
  - (5) For the purposes of this paragraph an objection to such a proposal shall not be treated as duly made unless—
    - (a) it is made within the time and in the manner specified in the notice required by this paragraph; and
    - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
  - (6) Where it is proposed to make an order under this paragraph extinguishing a public right of way over a road on land acquired for the purposes of this Act by a housing action trust and compensation in respect of restrictions imposed under section 1 or section 2 of the <sup>M34</sup>Restriction of Ribbon Development Act 1935 in respect of that road has been paid by the highway authority (or, in the case of a trunk road, by the authority which, when the compensation was paid, was the authority for the purposes of section 4 of the <sup>M35</sup>Trunk Roads Act 1936), the order may provide for the payment by the housing action trust to that authority, in respect of the compensation so paid, of such sums as the Secretary of State, with the consent of the Treasury, may determine.
  - (7) Where the Secretary of State makes an order under this paragraph on the application of a housing action trust, he shall send a copy of it to the Post Office.

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#### **Marginal Citations**

**M34** 1935 c. 47.

**M35** 1936 c. 5 (1 Edw. 8 & Geo. 6.)

- 10 (1) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.
- (2) Unless the Secretary of State decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.
- (4) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.
- (5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the housing action trust on whose representation the order is proposed to be made, and to any other persons to whom it appears to the Secretary of State to be expedient to afford such an opportunity.
- (6) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

#### *Telegraphic lines*

- 11 (1) Where an order under paragraph 9 above extinguishing a public right of way is made on the application of a housing action trust and at the time of the publication of the notice required by sub-paragraph (2) of that paragraph any telecommunication

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- apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the trust of his intention to remove the apparatus or that part of it, as the case may be;
  - (b) the operator of the system may by notice given in that behalf to the trust not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;
  - (c) subject to paragraph (b) above, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
  - (d) the operator of the system shall be entitled to recover from the trust the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require; and
  - (e) where under the preceding provisions of this sub-paragraph the operator of the system has abandoned the whole or any part of any telecommunication apparatus, that apparatus or that part of it shall vest in the trust and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.
- (2) As soon as practicable after the making of an order under paragraph 9 above extinguishing a public right of way in circumstances in which sub-paragraph (1) above applies in relation to the operator of any telecommunications code system, the Secretary of State shall give notice to the operator of the making of the order.

#### *Statutory undertakers*

- 12 (1) Where any land has been acquired by a housing action trust under section 77 of this Act and—
- (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over that land, or
  - (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,
- the trust, if satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus, is necessary for the purpose of carrying out any development, may serve on the statutory undertakers a notice stating that, at the end of the period of 28 days from the date of service of the notice or such longer period as may be specified therein, the right will be extinguished or requiring that, before the end of that period, the apparatus shall be removed.
- (2) The statutory undertakers on whom a notice is served under sub-paragraph (1) above may, before the end of the period of 28 days from the service of the notice, serve

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a counter-notice on the trust stating that they object to all or any provisions of the notice and specifying the grounds of their objection.

- (3) If no counter-notice is served under sub-paragraph (2) above—
- (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice; and
  - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the trust may remove the apparatus and dispose of it in any way it may think fit.
- (4) If a counter-notice is served under sub-paragraph (2) above on a trust, the trust may either withdraw the notice (without prejudice to the service of a further notice) or may apply to the Secretary of State and the appropriate Minister for an order under this paragraph embodying the provisions of the notice with or without modification.
- (5) Where by virtue of this paragraph any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the trust.
- (6) [<sup>F82</sup>Sections 280 and 282 of the Town and Country Planning Act 1990] (measure of compensation to statutory undertakers) shall apply to compensation under sub-paragraph (5) above as they apply to compensation under [<sup>F82</sup>section 279(2)] of that Act.
- (7) Except in a case in which paragraph 11 above has effect—
- (a) the reference in paragraph (a) of sub-paragraph (1) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system; and
  - (b) the reference in paragraph (b) of that sub-paragraph to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system.
- (8) Where paragraph (a) or paragraph (b) of sub-paragraph (1) above has effect as mentioned in sub-paragraph (7) above, in the rest of this paragraph and in paragraph 13 below,—
- (a) any reference to statutory undertakers shall have effect as a reference to the operator of any such system as is referred to in sub-paragraph (7) above; and
  - (b) any reference to the appropriate Minister shall have effect as a reference to the Secretary of State for Trade and Industry.

#### Textual Amendments

**F82** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(6\)\(a\)](#)

- 13 (1) Before making an order under paragraph 12(4) above the Ministers proposing to make the order—

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- (a) shall afford to the statutory undertakers on whom notice was served under paragraph 12(1) above an opportunity of objecting to the application for the order; and
    - (b) if any objection is made, shall consider the objection and afford to those statutory undertakers and to the trust on whom the counter-notice was served, an opportunity of appearing before and being heard by a person appointed by the Secretary of State and the appropriate Minister for the purpose;and the Ministers may then, if they think fit, make the order in accordance with the application either with or without modification.
  - (2) Where an order is made under paragraph 12(4) above—
    - (a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order; and
    - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the trust may remove the apparatus and dispose of it in any way it may think fit.
- 14 (1) Subject to this paragraph, where any land has been acquired by a housing action trust under section 77 of this Act and—
- (a) there is on, under or over the land apparatus vested in or belonging to statutory undertakers, and
  - (b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,
- the undertakers may serve on the trust a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.
- (2) Where, after the land has been acquired as mentioned in sub-paragraph (1) above, development of the land is begun to be carried out, no notice under this paragraph shall be served later than 21 days after the beginning of the development.
  - (3) Where a notice is served under this paragraph the trust on which it is served may, before the end of the period of 28 days from the date of service, serve on the statutory undertakers a counter-notice stating that it objects to all or any of the provisions of the notice and specifying the grounds of its objection.
  - (4) If no counter-notice is served under sub-paragraph (3) above, the statutory undertakers shall, after the end of the said period of 28 days, have the rights claimed in their notice.
  - (5) If a counter-notice is served under sub-paragraph (3) above, the statutory undertakers who served the notice under this paragraph may either withdraw it or may apply to the Secretary of State and the appropriate Minister for an order under this paragraph conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.
  - (6) Where by virtue of this paragraph or an order of Ministers made under it, statutory undertakers have the right to execute works for the removal or re-siting of apparatus,

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they may arrange with the trust for the works to be carried out by the trust, under the superintendence of the undertakers, instead of by the undertakers themselves.

- (7) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of this paragraph or an order of Ministers made under it, the undertakers shall be entitled to compensation from the trust.
- (8) [<sup>F83</sup>Sections 280 and 282 of the Town and Country Planning Act 1990] (measure of compensation to statutory undertakers) shall apply to compensation under sub-paragraph (7) above as they apply to compensation under [<sup>F83</sup>section 279(4)] of that Act.
- (9) In sub-paragraph (1)(a) above, the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system.
- (10) Where sub-paragraph (1)(a) above has effect as mentioned in sub-paragraph (9) above, in the rest of this paragraph—
- (a) any reference to statutory undertakers shall have effect as a reference to the operator of any such system as is referred to in sub-paragraph (9) above; and
  - (b) any reference to the appropriate Minister shall have effect as a reference to the Secretary of State for Trade and Industry.

#### Textual Amendments

**F83** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(6\)\(b\)](#)

- 15 (1) The powers conferred by this paragraph shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—
- (a) to secure the provision for a designated area of services which would not otherwise be provided, or which would not otherwise be satisfactorily provided; or
  - (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in sub-paragraph (2) below.
- (2) The said acts and events are—
- (a) the acquisition under Part III of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question; and
  - (b) the extinguishment of a right or the imposition of any requirements by virtue of paragraph 12 above.
- (3) The powers conferred by this paragraph shall also be exercisable where, on a representation made by a housing action trust, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for the purposes of a designated area under Part III of this Act.

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- (4) Where the powers conferred by this paragraph are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the provision of the services in question, as mentioned in sub-paragraph (1)(a) or sub-paragraph (3) above, or to secure the adjustment in question, as mentioned in sub-paragraph (1)(b) above, as the case may be.
- (5) Without prejudice to the generality of sub-paragraph (4) above, an order under this paragraph may make provision—
- (a) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any buildings or works so specified;
  - (b) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works;
  - (c) where it has been represented that the making of the order is expedient for the purposes mentioned in sub-paragraph (1)(a) or sub-paragraph (3) above, for giving effect to such financial arrangements between the housing action trust and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order; and
  - (d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.
- 16 (1) As soon as may be after making such a representation as is mentioned in sub-paragraph (1) or sub-paragraph (3) of paragraph 15 above—
- (a) the statutory undertakers, in a case falling within sub-paragraph (1), or
  - (b) the housing action trust, in a case falling within sub-paragraph (3),
- shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which representation relates, and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if it is so directed by the Secretary of State and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.
- (2) Orders under paragraph 15 above shall be subject to special parliamentary procedure.
- 17 (1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligations incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this sub-paragraph applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.
- (2) Sub-paragraph (1) above applies to the following acts and events—
- (a) the compulsory acquisition under this Part of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers; and

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- (b) the extinguishment of a right or the imposition of any requirement by virtue of paragraph 12 above.
  - (3) As soon as may be after making a representation to the appropriate Minister under sub-paragraph (1) above, the appropriate statutory undertakers shall, as may be directed by the appropriate Minister, either publish (in such form and manner as may be so directed) a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices.
  - (4) If any objection to the making of an order under this paragraph is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.
  - (5) Immediately after an order is made under this paragraph by the appropriate Minister, he shall publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours, and shall serve a like notice—
    - (a) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this sub-paragraph, specifying an address for service; and
    - (b) on such other persons (if any) as the appropriate Minister thinks fit.
  - (6) Subject to the following provisions of this paragraph, an order under this paragraph shall become operative on the date on which the notice required by sub-paragraph (5) above is first published.
  - (7) Where in accordance with sub-paragraph (4) above the order is subject to special parliamentary procedure, sub-paragraph (6) above shall not apply.
  - (8) If any person aggrieved by an order under this paragraph wishes to question the validity of the order on the ground that it is not within the powers conferred by this paragraph, or that any requirement of this paragraph has not been complied with in relation to the order, he may, within six weeks from the date on which the notice required by sub-paragraph (5) above is first published, make an application to the High Court under this paragraph.
  - (9) On any application under sub-paragraph (8) above the High Court—
    - (a) may by interim order wholly or in part suspend the operation of the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
    - (b) if satisfied that the order is wholly or to any extent outside the powers conferred by this paragraph, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of this paragraph, may wholly or in part quash the order, either generally or in so far as it affects any property of the applicant.
  - (10) Subject to sub-paragraph (8) above, the validity of an order under this paragraph shall not be questioned in any legal proceedings whatsoever, either before or after the order has been made.
- 18 (1) For the purposes of paragraphs 15 and 17 above, an objection to the making of an order thereunder shall not be treated as duly made unless—



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- (a) the objection is made within the time and in the manner specified in the notice required by paragraph 16 or (as the case may be) paragraph 17 above; and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Where an objection to the making of such an order is duly made in accordance with sub-paragraph (1) above and is not withdrawn, the following provisions of this paragraph shall have effect in relation thereto; but, in the application of those provisions to an order under paragraph 15 above, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.
- (3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision, shall consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (4) In so far as the appropriate Minister after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.
- (5) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required it is not submitted within the specified period, the appropriate Minister may make a final decision without further investigation as to those matters.
- (6) Subject to sub-paragraphs (4) and (5) above, the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, local authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.
- (7) Notwithstanding anything in the preceding provisions of this paragraph, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.
- (8) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

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### Interpretation

- 19 Any expression used in this Part of the Schedule to which a meaning is assigned by paragraph 1 of Schedule 4 to the<sup>M36</sup>Telecommunications Act 1984 has that meaning in this Part.

#### Marginal Citations

**M36** 1984 c. 12.

## PART III

### ACQUISITION OF RIGHTS

- 20 (1) The<sup>M37</sup>Compulsory Purchase Act 1965 (in this Part of the Schedule referred to as “the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory purchase of rights by virtue of section 77(5) of this Act as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the 1965 Act to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.
- (2) Without prejudice to the generality of sub-paragraph (1) above, in relation to the purchase of rights in pursuance of section 77(5) of this Act—
- (a) Part I of the 1965 Act (which relates to compulsory purchases under the<sup>M38</sup>Acquisition of Land Act 1981) shall have effect with the modifications specified in paragraphs 21 to 23 below; and
  - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

#### Marginal Citations

**M37** 1965 c. 56.

**M38** 1981 c. 58.

- 21 (1) For section 7 of the 1965 Act (which relates to compensation) there shall be substituted the following—
- “7 (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.
- (2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words “land is acquired or taken” there shall be substituted the words “a

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right over land is purchased” and for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.”

22 For section 8 of the 1965 Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following—

(1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (hereafter in this subsection referred to as “the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as “the Tribunal”); and
- (b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the compulsory purchase order to which the notice to treat relates shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.

(3) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section a compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words “a right over”, for the word “severance” there shall be substituted the words “right on the whole of the house, building or manufactory or of the house and the park or garden”

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and for the words “part proposed” and “part is” there shall be substituted respectively the words “right proposed” and “right is”.”

- 23 (1) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely—
- section 9(4) (failure of owners to convey),
  - paragraph 10(3) of Schedule 1 (owners under incapacity),
  - paragraph 2(3) of Schedule 2 (absent and untraced owners), and
  - paragraphs 2(3) and 7(2) of Schedule 4 (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the acquiring authority.
- (2) Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff’s warrant in the event of obstruction) of the Act shall be modified correspondingly.
- (3) Section 20 of the 1965 Act (compensation for short-term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.
- (4) Section 22 of the 1965 Act (protection of acquiring authority’s possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

## SCHEDULE 11

Section 79(13).

### PROVISIONS APPLICABLE TO CERTAIN DISPOSALS OF HOUSES

#### *Repayment of discount on early disposal*

- 1 (1) This paragraph applies where, on the disposal of a house under section 79 of this Act, a discount is given to the purchaser by the housing action trust in accordance with a consent given by the Secretary of State under subsection (1) of that section and that consent does not exclude the application of this paragraph.
- (2) On the disposal, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to pay to the housing action trust

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on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal then only on the first of them), an amount equal to the discount, reduced by one-third for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.

VALID FROM 18/01/2005

*<sup>F84</sup>Increase in value of house attributable to home improvements*

**Textual Amendments**

**F84** Sch. 11 para. 1A and cross-heading inserted (18.1.2005) by Housing Act (c. 34), {ss. 203}, 270 (with s. 203(4))

- 1A (1) In calculating the maximum amount which may be demanded by the housing action trust under paragraph 1, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
- (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance, grant or assignment and before the disposal,
- shall be disregarded.
- (2) The amount to be disregarded under this paragraph shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this paragraph to make a determination for the purposes of this paragraph unless—
- (a) it is reasonably practicable for him to do so; and
  - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this paragraph (and in default of an agreement), no amount is required to be disregarded under this paragraph.]

*Obligation to repay a charge on the house*

- 2 (1) The liability that may arise under the covenant required by paragraph 1 above is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) The charge has priority immediately after any legal charge securing an amount—
- (a) left outstanding by the purchaser; or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal; or
  - (c) further advanced to him by that institution;
- but the housing action trust may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this paragraph to a

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legal charge securing an amount advanced or further advanced to the purchaser by that institution.

- (3) A charge taking effect by virtue of this paragraph is a land charge for the purposes of section 59 of the <sup>M39</sup>Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.
- (4) The covenant required by paragraph 1 above does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this paragraph, or a person deriving title under him; and a provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with the covenant.
- (5) The approved lending institutions for the purposes of this paragraph are—
- (a) a building society;
  - (b) a bank;
  - (c) an insurance company;
  - (d) a friendly society; and
  - (e) any body specified, or of a class or description specified, in an order made under section 156 of the <sup>M40</sup>Housing Act 1985 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this paragraph).

#### Marginal Citations

**M39** 1925 c. 21.

**M40** 1985 c. 68.

VALID FROM 18/01/2005

#### *<sup>F85</sup>Right of first refusal for housing action trust*

#### Textual Amendments

**F85** Sch. 11 paras. 2A, 2B and cross-headings inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 204, 270 (with s. 204(3))

- 2A (1) This paragraph applies where, on the disposal of a house under section 79 of this Act, a discount is given to the purchaser by the housing action trust in accordance with a consent given by the Secretary of State under subsection (1) of that section and that consent does not exclude the application of this paragraph.
- (2) On the disposal, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant

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disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

- (4) In sub-paragraph (3) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.
- (5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
  - (a) a housing action trust which has made a disposal as mentioned in sub-paragraph (1), or
  - (b) such other person as is determined in accordance with the regulations,a right of first refusal to have a disposal within sub-paragraph (6) made to him for such consideration as is mentioned in paragraph 2B.
- (6) The disposals within this sub-paragraph are—
  - (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (7) Regulations under this paragraph may, in particular, make provision—
  - (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
  - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (8) In sub-paragraph (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that sub-paragraph affects the generality of sub-paragraph (5).

- (9) Regulations under this paragraph—
  - (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 01/04/1997.*

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- (10) The limitation imposed by a covenant within sub-paragraph (3) is a local land charge.
- (11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

VALID FROM 18/01/2005

*Consideration payable for disposal under paragraph 2A*

- 2B
- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in paragraph 2A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that paragraph).
  - (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by paragraph 1 (repayment of discount on early disposal) would be discharged by the vendor.
  - (3) If the offer is accepted in accordance with regulations under paragraph 2A, no payment shall be required in pursuance of any such covenant as is mentioned in sub-paragraph (2), but the consideration shall be reduced, subject to sub-paragraph (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
  - (4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in sub-paragraph (2), the consideration shall not be reduced under sub-paragraph (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under paragraph 2A).]

*Relevant disposals*

- 3
- (1) A disposal, whether of the whole or part of the house, is a relevant disposal for the purpose of this Schedule if it is—
    - (a) a conveyance of the freehold or an assignment of the lease; or
    - (b) the grant of a lease or sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
  - (2) For the purposes of sub-paragraph (1)(b) above it shall be assumed—
    - (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised; and
    - (b) that any option to terminate a lease or sub-lease is not exercised.



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### *Exempted disposals*

- 4 (1) A disposal is an exempted disposal for the purposes of this Schedule if—
- (a) it is a disposal of the whole of the house and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in sub-paragraph (2) below);
  - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - [<sup>F86</sup>(c) it is a disposal of the whole of the house in pursuance of an such order as is mentioned in sub-paragraph (4) below;]
  - (d) it is a compulsory disposal; or
  - (e) the property disposed of is property included with the house as being such a yard, garden, outhouse or appurtenance as is referred to in section 92(1)(b) of this Act.
- (2) For the purposes of sub-paragraph (1)(a) above, a person is a qualifying person in relation to a disposal if—
- (a) he is the person or one of the persons by whom the disposal is made;
  - (b) he is the spouse or a former spouse of that person or one of those persons; or
  - (c) he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.
- (3) Section 186 of the <sup>M41</sup>Housing Act 1985 applies to determine whether a person is a member of another person's family for the purposes of sub-paragraph (2)(c) above.
- [<sup>F87</sup>(4) The orders referred to in sub-paragraph (1)(c) above are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
  - (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
  - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
  - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).]

#### **Textual Amendments**

- F86** Sch. 11 para. 4(1)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 19(2)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)
- F87** Sch 11 para. 4(4) added (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 19(3)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)

#### **Marginal Citations**

- M41** 1985 c. 68.

*Status: Point in time view as at 01/04/1997.*

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### *Compulsory disposal*

- 5 In this Schedule a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

### *Exempted disposals ending obligation under covenants*

- 6 Where there is a relevant disposal which is an exempted disposal by virtue of paragraph 4(1)(d) or paragraph 4(1)(e) above—
- (a) the covenant required by paragraph 1 above is not binding on the person to whom the disposal is made or any successor in title of his; and
  - (b) that covenant and the charge taking effect by virtue of paragraph 2 above cease to apply in relation to the property disposed of.

### *Treatment of options*

- 7 For the purpose of this Schedule, the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.

VALID FROM 18/11/2004

### *<sup>F88</sup>Treatment of deferred resale agreements*

#### **Textual Amendments**

**F88** Sch. 11 para. 8 and cross-heading inserted (18.11.2004 for certain purposes and otherwise 18.1.2005) by Housing 2004 (c. 34), {ss. 205(1)}, 270 (with 205(2))

- 8 (1) If a purchaser or his successor in title enters into an agreement within sub-paragraph (3), any liability arising under the covenant required by paragraph 1 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In sub-paragraph (1) “the appropriate time” means—
- (a) the time when the agreement is entered into, or
  - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this sub-paragraph if it is an agreement between the purchaser or his successor in title and any other person—
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 79,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.

*Status: Point in time view as at 01/04/1997.*

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- (4) Such an agreement is within sub-paragraph (3)—
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
- (a) for sub-paragraph (1) to apply to agreements of any description specified in the order in addition to those within sub-paragraph (3);
  - (b) for sub-paragraph (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under sub-paragraph (5)—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this paragraph—
- “agreement” includes arrangement;
- “the discount repayment period” means the period of 3 years that applies for the purposes of paragraph 1(2) or the period of five years that applies for the purposes of paragraph 1(3)(depending on whether an offer such as is mentioned in section 203(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).]

## F89 SCHEDULE 12

### Textual Amendments

**F89** Sch. 12 repealed (1.10.1996) by 1996 c. 52, s. 227, Sch. 19 Pt. IX; S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

## SCHEDULE 13

Section 119.

### AMENDMENTS OF LANDLORD AND TENANT ACT 1987

- 1 In Part I of the <sup>M44</sup>Landlord and Tenant Act 1987 (tenants' rights of first refusal), in section 2 (landlords for the purposes of Part I), in subsection (1) after “(2)” there shall be inserted “ and section 4(1A) ”.

### Marginal Citations

**M44** 1987 c. 31.

*Status: Point in time view as at 01/04/1997.*

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- 2 (1) In section 3 of that Act (qualifying tenants), in subsection (1) (paragraphs (a) to (c) of which exclude certain tenants) the word “or” immediately preceding paragraph (c) shall be omitted and at the end of that paragraph there shall be added “or
- (d) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988”.
- (2) In subsection (2) of that section (which excludes persons having interests going beyond a particular flat), for paragraphs (a) and (b) there shall be substituted the words “by virtue of one or more tenancies none of which falls within paragraphs (a) to (d) of subsection (1), he is the tenant not only of the flat in question but also of at least two other flats contained in those premises”; and in subsection (3) of that section for “(2)(b)” there shall be substituted “(2)”.
- 3 (1) In section 4 of that Act (relevant disposals) after subsection (1) there shall be inserted the following subsection—
- “(1A) Where an estate or interest of the landlord has been mortgaged, the reference in subsection (1) above to the disposal of an estate or interest by the landlord includes a reference to its disposal by the mortgagee in exercise of a power of sale or leasing, whether or not the disposal is made in the name of the landlord; and, in relation to such a proposed disposal by the mortgagee, any reference in the following provisions of this Part to the landlord shall be construed as a reference to the mortgagee.”
- (2) In subsection (2) of that section, in paragraph (a), at the end of sub-paragraph (i) there shall be inserted “or”, sub-paragraph (ii) shall be omitted and at the end of that paragraph there shall be inserted—
- “(aa) a disposal consisting of the creation of an estate or interest by way of security for a loan”.
- 4 (1) In Part III of that Act (compulsory acquisition by tenants of their landlord’s interest), in section 26 (qualifying tenants), in subsection (2) (which excludes persons having interests going beyond a particular flat) for the words following “if” there shall be substituted “by virtue of one or more long leases none of which constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies, he is the tenant not only of the flat in question but also of at least two other flats contained in those premises”.
- (2) At the end of the said section 26 there shall be added the following subsection—
- “(4) For the purposes of subsection (2) any tenant of a flat contained in the premises in question who is a body corporate shall be treated as the tenant of any other flat so contained and let to an associated company, as defined in section 20(1).”
- 5 In Part IV of that Act (variation of leases), for subsections (6) and (7) of section 35 (which make provision about long leases) there shall be substituted the following subsection—
- “(6) For the purposes of this Part a long lease shall not be regarded as a long lease of a flat if—
- (a) the demised premises consist of or include three or more flats contained in the same building; or
- (b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.”

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- 6 In section 40 (application for variation of insurance provisions of lease of dwelling other than a flat) for subsection (4) (which makes provision about long leases) there shall be substituted the following subsections—
- “(4) For the purpose of this section, a long lease shall not be regarded as a long lease of a dwelling if—
- (a) the demised premises consist of three or more dwellings; or
  - (b) the lease constitutes a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.
- (4A) Without prejudice to subsection (4), an application under subsection (1) may not be made by a person who is a tenant under a long lease of a dwelling if, by virtue of that lease and one or more other long leases of dwellings, he is also a tenant from the same landlord of at least two other dwellings.
- (4B) For the purposes of subsection (4A), any tenant of a dwelling who is a body corporate shall be treated as a tenant of any other dwelling held from the same landlord which is let under a long lease to an associated company, as defined in section 20(1).”
- 7 In Part VII of that Act (general), in section 58 (exempt landlords), in subsection (1) after paragraph (c) there shall be inserted the following paragraph—
- “(ca) a housing action trust established under Part III of the Housing Act 1988.”

## SCHEDULE 14

Section 120.

### APPOINTMENT ETC. OF RENT OFFICERS

#### PART I

#### AMENDMENTS OF SECTION 63 OF <sup>M45</sup>RENT ACT 1977

##### Marginal Citations

M45 1977 c. 42.

- 1 In subsection (1), paragraph (b) and the word “and” immediately preceding it shall be omitted.
- 2 In subsection (2)—
- (a) in paragraph (a) the words “and deputy rent officers” shall be omitted;
  - (b) in paragraph (b) the words “or deputy rent officer” shall be omitted;
  - (c) in paragraph (d) the words “and deputy rent officers” and the word “and” at the end of the paragraph shall be omitted; and
  - (d) paragraph (e) shall be omitted.
- 3 After subsection (2) there shall be inserted the following subsection—
- “(2A) A scheme under this section may make all or any of the following provisions—

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- (a) provision requiring the consent of the Secretary of State to the appointment of rent officers;
- (b) provision with respect to the appointment of rent officers for fixed periods;
- (c) provision for the proper officer of the local authority, in such circumstances and subject to such conditions (as to consent or otherwise) as may be specified in the scheme,—
  - (i) to designate a person appointed or to be appointed a rent officer as chief rent officer and to designate one or more such persons as senior rent officers;
    - (ii) to delegate to a person so designated as chief rent officer such functions as may be specified in the scheme; and
    - (iii) to revoke a designation under sub-paragraph (i) above and to revoke or vary a delegation under sub-paragraph (ii) above;
- (d) provision with respect to the delegation of functions by a chief rent officer to other rent officers (whether designated as senior rent officers or not);
- (e) provision as to the circumstances in which and the terms on which a rent officer appointed by the scheme may undertake functions outside the area to which the scheme relates in accordance with paragraph (f) below;
- (f) provision under which a rent officer appointed for an area other than that to which the scheme relates may undertake functions in the area to which the scheme relates and for such a rent officer to be treated for such purposes as may be specified in the scheme (which may include the purposes of paragraphs (c) and (d) above and paragraphs (c) and (d) of subsection (2) above) as if he were a rent officer appointed under the scheme; and
- (g) provision conferring functions on the proper officer of a local authority with respect to the matters referred to in paragraphs (d) to (f) above.”

4 In subsection (3) the words “and deputy rent officers” shall be omitted.

5 In subsection (7)—

- (a) in paragraph (b) the words “and deputy rent officers” shall be omitted, after the words “section 7” there shall be inserted “ “or section 24 ” and for the words following “1972” there shall be substituted “ “or ”; and
- (b) at the end of paragraph (b) there shall be inserted the following paragraph—
  - “(c) incurred in respect of increases of pensions payable to or in respect of rent officers (so appointed) by virtue of the Pensions (Increase) Act 1971”.

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## PART II

### SECTIONS TO BE INSERTED IN <sup>M46</sup>RENT ACT 1977 AFTER SECTION 64

#### Marginal Citations

M46 1977 c. 42.

#### *“ Amalgamation schemes*

64A(1) If the Secretary of State is of the opinion—

- (a) that there is at any time insufficient work in two or more registration areas to justify the existence of a separate service of rent officers for each area, or
- (b) that it would at any time be beneficial for the efficient administration of the service provided by rent officers in two or more registration areas,

he may, after consultation with the local authorities concerned, make a scheme under section 63 above designating as an amalgamated registration area the areas of those authorities and making provision accordingly for that amalgamated area.

(2) Any reference in the following provisions of this Chapter to a registration area includes a reference to an amalgamated registration area and, in relation to such an area, “the constituent authorities” means the local authorities whose areas make up the amalgamated area.

(3) A scheme under section 63 above made for an amalgamated registration area—

- (a) shall confer on the proper officer of one of the constituent authorities all or any of the functions which, in accordance with section 63 above, fall to be exercisable by the proper officer of the local authority for the registration area;
- (b) may provide that any rent officer previously appointed for the area of any one of the constituent authorities shall be treated for such purposes as may be specified in the scheme as a rent officer appointed for the amalgamated registration area; and
- (c) shall make such provision as appears to the Secretary of State to be appropriate for the payment by one or more of the constituent authorities of the remunerations, allowances and other expenditure which under section 63 above is to be paid by the local authority for the area.

(4) A scheme under section 63 above made for an amalgamated registration area may contain such incidental, transitional and supplementary provisions as appear to the Secretary of State to be necessary or expedient.

#### *New basis for administration of rent officer service*

64B(1) If, with respect to registration areas generally or any particular registration area or areas, it appears to the Secretary of State that it is no longer appropriate for the appointment, remuneration and administration of rent officers to be a function of local authorities, he may by order—

- (a) provide that no scheme under section 63 above shall be made for the area or areas specified in the order; and
- (b) make, with respect to the area or areas so specified, such provision as appears to him to be appropriate with respect to the appointment, remuneration and

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administration of rent officers and the payment of pensions, allowances or gratuities to or in respect of them.

- (2) An order under this section shall make provision for any expenditure attributable to the provisions of the order to be met by the Secretary of State in such manner as may be specified in the order (whether by way of grant, reimbursement or otherwise); and any expenditure incurred by the Secretary of State by virtue of this subsection shall be paid out of money provided by Parliament.
- (3) An order under this section—
- (a) may contain such incidental, transitional and supplementary provisions as appear to the Secretary of State to be appropriate, including provisions amending this Part of this Act; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

SCHEDULE 15

Section 130.

REPAIR NOTICES: AMENDMENTS OF <sup>M47</sup>HOUSING ACT 1985, PART VI

**Marginal Citations**

**M47** 1985 c. 68.

- 1 (1) In section 189 (repair notice in respect of unfit house), in subsection (1)—
- (a) at the beginning there shall be inserted the words “ Subject to subsection (1A) ”; and
  - (b) for the word “house”, in each place where it occurs, there shall be substituted “ dwelling-house ”.
- (2) At the end of subsection (1) of that section there shall be inserted the following subsection—
- “(1A) Where the local housing authority are satisfied that a dwelling-house which is a flat is unfit for human habitation by reason of the defective condition of a part of the building outside the flat, they shall serve a repair notice on the person having control of that part of the building, unless they are satisfied that the works which would be required to that part are such that the flat is not capable of being rendered so fit at reasonable expense.”
- (3) In subsection (2) of that section—
- (a) in paragraph (a) for the words from “within such reasonable time” onwards there shall be substituted the words “ and to begin those works not later than such reasonable date, being not earlier than the seventh day after the notice becomes operative, as is specified in the notice and to complete those works within such reasonable time as is so specified, and ”; and
  - (b) in paragraph (b) for the word “house” there shall be substituted “ dwelling-house ”.



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- (4) In subsection (3) of that section for the words “the house”, in each place where they occur, there shall be substituted “the dwelling-house or part of the building concerned”, for the word “may” there shall be substituted “shall” and for the words “lessee or otherwise” there shall be substituted “or lessee”.
- (5) At the end of that section there shall be added the following subsection—
- “(5) A repair notice under this section which has become operative is a local land charge.”
- 2 (1) In section 190 (repair notice in respect of house in state of disrepair, but not unfit), in subsection (1),—
- (a) for the word “house”, in each place where it occurs, there shall be substituted “dwelling-house”;
- (b) in paragraph (b), after the word “satisfied” there shall be inserted “whether” and after the word “tenant”, in the first place where it occurs, there shall be inserted “or otherwise”.
- (2) At the end of subsection (1) of that section there shall be inserted the following subsection—
- “(1A) Where the local housing authority—
- (a) are satisfied that a building containing a flat is in such a state of disrepair that, although the flat is not unfit for human habitation, substantial repairs are necessary to a part of the building outside the flat to bring the flat up to a reasonable standard, having regard to its age, character and locality, or
- (b) are satisfied, whether on a representation made by an occupying tenant or otherwise, that a building containing a flat is in such a state of disrepair that, although the flat is not unfit for human habitation, the condition of a part of the building outside the flat is such as to interfere materially with the personal comfort of the occupying tenant,
- they may serve a repair notice on the person having control of the part of the building concerned.”
- (3) In subsection (2) of that section for the words from “within such reasonable time” onwards there shall be substituted “to execute the works specified in the notice, not being works of internal decorative repair, and—
- (a) to begin those works not later than such reasonable date, being not earlier than the seventh day after the notice becomes operative, as is specified in the notice; and
- (b) to complete those works within such reasonable time as is so specified.”
- (4) In subsection (3) of that section for the words “the house”, in each place where they occur, there shall be substituted “the dwelling-house or part of the building concerned”, for the word “may” there shall be substituted “shall” and for the words “lessee or otherwise” there shall be substituted “or lessee”.
- (5) At the end of that section there shall be added the following subsection—

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“(5) A repair notice under this section which has become operative is a local land charge.”

3 (1) In section 191 (appeals against repair notices), after subsection (1) there shall be inserted the following subsection—

“(1A) Without prejudice to the generality of subsection (1), it shall be a ground of appeal that some person other than the appellant, being a person who is an owner in relation to the dwelling-house or part of the building concerned, ought to execute the works or pay the whole or part of the cost of executing them.”

(2) In subsection (3) of that section for the words “the house” there shall be substituted “the dwelling-house”.

(3) After subsection (3) of that section there shall be inserted the following subsections—

“(3A) Where the grounds on which an appeal is brought are or include that specified in subsection (1A), the appellant shall serve a copy of his notice of appeal on each other person referred to; and on the hearing of the appeal the court may—

- (a) vary the repair notice so as to require the works to be executed by any such other person; or
- (b) make such order as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the works are executed by the local housing authority, to the authority.

(3B) In the exercise of its powers under subsection (3A), the court shall take into account, as between the appellant and any such other person as is referred to in that subsection,—

- (a) their relative interests in the dwelling-house or part of the building concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
- (b) their relative responsibility for the state of the dwelling-house or building which gives rise to the need for the execution of the works; and
- (c) the relative degree of benefit to be derived from the execution of the works.

(3C) If, by virtue of the exercise of the court’s powers under subsection (3A), a person other than the appellant is required to execute the works specified in a repair notice, then, so long as that other person continues to be an owner in relation to the premises to which the notice relates, he shall be regarded as the person having control of those premises for the purposes of the following provisions of this Part.”

4 (1) In section 192 (power to purchase houses found on appeal to be unfit etc.), in subsections (1) and (2) for the words “the house”, in each place where they occur, there shall be substituted “the dwelling-house”.

(2) In subsection (3) of that section for the words “the house” there shall be substituted “the dwelling-house or part of the building in question”.

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- (3) In subsection (4) of that section for the words “the house” there shall be substituted “the dwelling-house”.
- 5 (1) In section 193 (power of local housing authority to execute works) for subsection (2) there shall be substituted the following subsections—
- “ (2) For the purpose of this Part compliance with the notice means beginning and completing the works specified in the notice,—
- (a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;
- (b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and
- (c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date on which the notice becomes operative and within such period (beginning on that twenty-first day) as is specified in the notice.
- (2A) If, before the expiry of the period which under subsection (2) is appropriate for completion of the works specified in the notice, it appears to the local housing authority that reasonable progress is not being made towards compliance with the notice, the authority may themselves do the work required to be done by the notice.”
- (2) At the end of that section there shall be added the following subsection—
- “ (4) If, after the local housing authority have given notice under section 194 of their intention to enter and do any works, the works are in fact carried out by the person having control of the dwelling-house or part of the building in question, any administrative and other expenses incurred by the authority with a view to doing the works themselves shall be treated for the purposes of Schedule 10 as expenses incurred by them under this section in carrying out works in default of the person on whom the repair notice was served.”
- 6 (1) In section 194 (notice of authority’s intention to execute works), in subsection (1)—
- (a) for the words “a house” there shall be substituted “any premises”;
- (b) for the word “may” there shall be substituted “shall”; and
- (c) for the words “the house”, in each place where they occur, there shall be substituted “the premises”.
- (2) In subsection (2) of that section for the words “the house”, in each place where they occur, there shall be substituted “the premises”.
- 7 In section 198 (penalty for obstruction), in subsection (2) for the words “level 2” there shall be substituted “level 3”.
- 8 After section 198 there shall be inserted the following section—

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**“198A Penalty for failure to execute works.**

- (1) A person having control of premises to which a repair notice relates who intentionally fails to comply with the notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.
- (3) Section 193(2) shall have effect to determine whether a person has failed to comply with a notice and what is the period for completion of any works.
- (4) The provisions of this section are without prejudice to the exercise by the local housing authority of the powers conferred by the preceding provisions of this Part.”

9 Sections 199 to 201 (recovery by lessee of proportion of works and provisions as to charging orders) shall cease to have effect.

10 In section 203 (saving for rights arising from breach of covenant, etc.), in subsection (3) for the words “a house” there shall be substituted “any premises”.

11 In section 205 (application of provisions to parts of buildings and temporary or movable structures) paragraph (a) shall be omitted and for the word “house” there shall be substituted “dwelling-house”.

12 (1) In section 207 (definitions)—

(a) for the definition beginning “house” there shall be substituted—

“ “dwelling-house” and “flat” shall be construed in accordance with subsection (2) and “the building”, in relation to a flat, means the building containing the flat”;

(b) in the definition of “person having control” for the words “in relation to premises” there shall be substituted “subject to section 191(3A),—

(a) in relation to a dwelling-house”;

(c) at the end of that definition there shall be added “and

(b) in relation to a part of a building to which relates a repair notice served under subsection (1A) of section 189 or section 190, means a person who is an owner in relation to that part of the building (or the building as a whole) and who, in the opinion of the authority by whom the notice is served, ought to execute the works specified in the notice”; and

(d) after the definition of “person having control” there shall be inserted—

“ “premises” includes a dwelling-house or part of a building and, in relation to any premises, any reference to a person having control shall be construed accordingly”.

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(2) At the end of that section there shall be inserted the following subsection—

“(2) For the purposes of this Part a “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.”

13 (1) In Schedule 10 (recovery of expenses incurred by local housing authority), in paragraph 2, in sub-paragraph (1) for the words following “authority” there shall be substituted—

- “(a) where the works were required by a notice under section 189 or section 190 (repair notices), from the person having control of the dwelling-house or part of the building to which the notice relates; and
- (b) in any other case, from the person on whom the notice was served;

and in the following provisions of this paragraph the person from whom expenses are recoverable by virtue of this sub-paragraph is referred to as “the person primarily liable”.

(2) In sub-paragraphs (2) and (3) of paragraph 2 of that Schedule for the words “on whom the notice was served”, in each place where they occur, there shall be substituted “primarily liable”.

(3) In paragraph 6 of that Schedule (appeals) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) Where the demand for recovery of expenses relates to works carried out by virtue of section 193(2A), it shall be a ground of appeal that, at the time the local housing authority gave notice under section 194 of their intention to enter and do the works, reasonable progress was being made towards compliance with the repair notice.”

## SCHEDULE 16

Section 135.

### SCHEDULE TO BE INSERTED IN THE <sup>M48</sup>HOUSING (SCOTLAND) ACT 1987

#### Commencement Information

**II** Sch. 16 wholly in force at 21.2.1992 see s. 141(2) and S.I. 1992/324, art. 2

#### Marginal Citations

**M48** 1987 c. 26.

*Status: Point in time view as at 01/04/1997.*

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## “SCHEDULE 6A

### CONSULTATION BEFORE DISPOSAL TO PRIVATE SECTOR LANDLORD

#### *Disposals to which this Schedule applies*

- 1 (1) This Schedule applies to the disposal by a local authority of an interest in land as a result of which a secure tenant of the local authority will become the tenant of a private sector landlord.
- (2) For the purposes of this Schedule the grant of an option which if exercised would result in a secure tenant of a local authority becoming the tenant of a private sector landlord shall be treated as a disposal of the interest which is the subject of the option.
- (3) Where a disposal of land by a local authority is in part a disposal to which this Schedule applies, the provisions of this Schedule apply to that part as to a separate disposal.
- (4) In this paragraph “private sector landlord” means a person other than one of those set out in sub-paragraphs (i) to (iv) and (viii) and (ix) of paragraph (a) of subsection (2) of section 61.

#### *Application for Secretary of State’s consent*

- 2 (1) The Secretary of State shall not entertain an application for his consent under section 12(7) to a disposal to which this Schedule applies unless the local authority certify either—
  - (a) that the requirements of paragraph 3 as to consultation have been complied with, or
  - (b) that the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the house in question before the disposal;
 and the certificate shall be accompanied by a copy of the notices given by the local authority in accordance with that paragraph.
- (2) Where the certificate is in the latter form, the Secretary of State shall not determine the application until the local authority certify as regards the tenants not originally consulted—
  - (a) that they have vacated the house in question, or
  - (b) that the requirements of paragraph 3 as to consultation have been complied with;
 and a certificate under sub-paragraph (b) shall be accompanied by a copy of the notices given by the local authority in accordance with paragraph 3.

#### *Requirements as to consultation*

- 3 (1) The requirements as to consultation referred to above are as follows.
- (2) The local authority shall serve notice in writing on the tenant informing him of—
  - (a) such details of their proposal as the local authority consider appropriate, but including the identity of the person to whom the disposal is to be made,
  - (b) the likely consequences of the disposal for the tenant, and
  - (c) the effect of section 81A and the provision made under it (preservation of right to buy on disposal to private sector landlord) and of this Schedule,

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and informing him that he may, within such reasonable period as may be specified in the notice, which must be at least 28 days after the service of the notice, make representations to the local authority.

(3) The local authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—

- (a) of any significant changes in their proposal, and
- (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,

and informing him of the effect of paragraph 5 (consent to be withheld if majority of tenants are opposed).

*Power to require further consultation*

4 The Secretary of State may require the local authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.

*Consent to be withheld if majority of tenants are opposed*

5 (1) The Secretary of State shall not give his consent if it appears to him that a majority of the tenants of the houses to which the application relates do not wish the disposal to proceed; but this does not affect his general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.

(2) In making his decision the Secretary of State may have regard to any information available to him; and the local authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.

*Protection of purchasers*

6 The Secretary of State's consent to a disposal is not invalidated by a failure on his part or that of the local authority to comply with the requirements of this Schedule."

SCHEDULE 17

Section 140.

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 <sup>M49</sup>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—

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“(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**

**M49** 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 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.



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- (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 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.

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- (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,
- 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 ”;

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- (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.
- (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—

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**“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 ”.
- (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”.

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- (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),—
- (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

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- (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 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 ”.

*Status: Point in time view as at 01/04/1997.*

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*The Leasehold Reform Act 1967*

- 15 In section 28 of the <sup>M50</sup>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**

**M50** 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 <sup>M51</sup>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**

**M51** 1986 c. 63.

- 18 ..... <sup>F90</sup>

**Textual Amendments**

**F90** 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 <sup>M52</sup>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”.

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**Marginal Citations**

**M52** 1974 c. 7.

*The Consumer Credit Act 1974*

- 20 In section 16 of the <sup>M53</sup>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**

**M53** 1974 c. 39.

*The Rent (Agriculture) Act 1976*

- 21 In section 28 of the <sup>M54</sup>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**

**M54** 1976 c. 80.

*The Rent Act 1977*

- 22 In the <sup>M55</sup>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**

**M55** 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



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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 <sup>M56</sup>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**

**M56** 1977 c. 43.

*The Justices of the Peace Act 1979*

- 27 In section 64 of the Justices of the <sup>M57</sup>Peace Act 1979 (disqualification in certain cases of justices who are members of local authorities) at the end of subsection (6) there shall be added the words “and a housing action trust established under Part III of the Housing Act 1988”.

**Marginal Citations**

**M57** 1979 c. 55.

*The Local Government, Planning and Land Act 1980*

- 28 In Schedule 16 to the <sup>M58</sup>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.”

**Marginal Citations**

**M58** 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 <sup>M59</sup>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 ”.

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**Marginal Citations**

**M59** 1980 c. 66.

*The New Towns Act 1981*

- 31 In section 22 of the <sup>M60</sup>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**

**M60** 1981 c. 64.

*The Acquisition of Land Act 1981*

- 32 (1) In section 12(2) of the <sup>M61</sup>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**

**M61** 1981 c. 67.

*The Matrimonial Homes Act 1983*

- 33 In section 1(6) of the <sup>M62</sup>Matrimonial Homes Act 1983 (occupation of one spouse by virtue of that section treated as occupation by the other for the purposes of certain enactments) after the words “Housing Act 1985” there shall be inserted “and Part I of the Housing Act 1988”.

**Marginal Citations**

**M62** 1983 c. 19.

- 34 (1) In Schedule 1 to that Act (transfer of certain tenancies on divorce, etc.), in paragraph 1—
- (a) at the end of paragraph (c) of sub-paragraph (1) there shall be inserted “or
- (d) an assured tenancy or assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988”; and
- (b) in sub-paragraph (2) after the words “secure tenancy” there shall be inserted “or an assured tenancy or assured agricultural occupancy”.

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- (2) In paragraph 2 of that Schedule (orders transferring tenancies etc. from one spouse to another)—
- (a) in sub-paragraph (1) after the words “Housing Act 1985” there shall be inserted “or an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988”; and
  - (b) at the end of sub-paragraph (3) there shall be inserted—
    - “(4) Where the spouse so entitled is for the purposes of section 17 of the Housing Act 1988 a successor in relation to the tenancy or occupancy, his or her former spouse (or, in the case of judicial separation, his or her spouse) shall be deemed to be a successor in relation to the tenancy or occupancy for the purposes of that section.
    - (5) If the transfer under sub-paragraph (1) above is of an assured agricultural occupancy, then, for the purposes of Chapter III of Part I of the Housing Act 1988,—
      - (a) the agricultural worker condition shall be fulfilled with respect to the dwelling-house while the spouse to whom the assured agricultural occupancy is transferred continues to be the occupier under that occupancy; and
      - (b) that condition shall be treated as so fulfilled by virtue of the same paragraph of Schedule 3 to the Housing Act 1988 as was applicable before the transfer.”

*The County Courts Act 1984*

- 35 (1) In section 66 of the <sup>M63</sup>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**

**M63** 1984 c. 28.

*The Matrimonial and Family Proceedings Act 1984*

- 36 In section 22 of the <sup>M64</sup>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**

**M64** 1984 c. 42.

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*The Local Government Act 1985*

37 In section 101 of the <sup>M65</sup>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**  
**M65** 1985 c. 51.

*The Housing Act 1985*

<sup>F91</sup>38 .....

**Textual Amendments**  
**F91** 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.)

<sup>F92</sup>39 .....

**Textual Amendments**  
**F92** 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

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- (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 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

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“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 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”.

F9356 .....

**Textual Amendments**  
F93 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

F9457 .....

**Textual Amendments**  
F94 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”.

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- 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”;
  - <sup>F95</sup>(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

**F95** 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—

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“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

(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 <sup>M66</sup>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**

**M66** 1985 c. 69.

*The Landlord and Tenant Act 1985*

67 (1) In section 5 of the <sup>M67</sup>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**

**M67** 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 <sup>M68</sup>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



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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—

“(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**

**M68** 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*

F9671 .....

**Textual Amendments**

**F96** Sch. 17 Pt. I para. 71 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

F9772 .....

**Textual Amendments**

**F97** 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 <sup>M69</sup>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**

**M69** 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) ”.

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- 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 <sup>M70</sup>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
- (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**

**M70** 1986 c. 50.

*The Housing (Scotland) Act 1987*

- 77 In section 12 of the <sup>M71</sup>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**

**M71** 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””.

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- 79 In section 61(4)(b) of the <sup>M72</sup>Housing (Scotland) Act 1987 after sub-paragraph (vi) there shall be inserted the following sub-paragraphs—
- “(vii) section 50 of the Housing Act 1988 (housing association grants); or
- (viii) section 51 of that Act (revenue deficit grants); or”.

**Marginal Citations**

**M72** 1987 c. 26.

*The Access to Personal Files Act 1987*

- 80 In Schedule 1 to the <sup>M73</sup>Access to Personal Files Act 1987 (accessible personal information: England and Wales), in paragraph 2 at the end of sub-paragraph (2) there shall be added “and any housing action trust established under Part III of the Housing Act 1988.”

**Marginal Citations**

**M73** 1987 c. 37.

*The Criminal Justice (Scotland) Act 1987*

- 81 In section 33 of the <sup>M74</sup>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**

**M74** 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 In section 84 of the <sup>M75</sup>Criminal Justice Act 1988 (bankruptcy of defendant etc.), 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 ”.

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**Marginal Citations**

**M75** 1988 c. 33.

- 84 In section 85 of that Act (sequestration in Scotland of defendant), 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 ”.

*The Housing (Scotland) Act 1988*

- 85 In section 19 of the <sup>M76</sup>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 ”.

**Marginal Citations**

**M76** 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 ”.

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- 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,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—

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*“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.”

**PART II**

AMENDMENTS CONSEQUENTIAL ON THE ESTABLISHMENT OF HOUSING FOR WALES

*The Land Commission Act 1967*

- 91 In section 56(4) of the <sup>M77</sup>Land Commission Act 1967 (bodies exempted from betterment levy) after paragraph (e) there shall be inserted the following paragraph—
- “(ea) Housing for Wales”.

**Marginal Citations**

**M77** 1967 c. 1.

*The Parliamentary Commissioner Act 1967*

- 92 In Schedule 2 to the <sup>M78</sup>Parliamentary Commissioner Act 1967 (departments etc. subject to investigation) after the entry “Housing Corporation” there shall be inserted—
- “Housing for Wales”.

**Marginal Citations**

**M78** 1967 c. 13.

*The Income and Corporation Taxes Act 1970*

- [<sup>F98</sup>93 In section 342 of the <sup>M79</sup>Income and Corporation Taxes Act 1970 (disposals of land between Housing Corporation and housing societies) and in section 342A of that Act (disposals by certain housing associations) after the words “Housing Corporation” in each place where they occur there shall be inserted “or Housing for Wales”.]

**Textual Amendments**

**F98** Sch. 17 Pt. II para. 93 repealed (*retrospectively*) by Finance Act 1991 (c. 31, SIF 63:2), s. 123, Sch. 19 Pt. VI, Note 1

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**Marginal Citations**

**M79** 1970 c. 10.

*The Land Compensation Act 1973*

- 94 In section 32(7B)(b) of the <sup>M80</sup>Land Compensation Act 1973 (supplementary provisions about home loss payments) after the words “Housing Corporation” there shall be inserted “or Housing for Wales”.

**Marginal Citations**

**M80** 1973 c. 26.

*The House of Commons Disqualification Act 1975*

- 95 In Schedule 1 to the <sup>M81</sup>House of Commons Disqualification Act 1975, in Part II (bodies of which all members are disqualified) there shall be inserted at the appropriate place the following entry—

“Housing for Wales”.

**Marginal Citations**

**M81** 1975 c. 24.

*The Statutory Corporations (Financial Provisions) Act 1975*

- 96 In Schedule 2 to the <sup>M82</sup>Statutory Corporations (Financial Provisions) Act 1975 (bodies corporate affected by section 5 of that Act as to their power to borrow in currencies other than sterling) after the entry “The Housing Corporation” there shall be inserted—

“Housing for Wales”.

**Marginal Citations**

**M82** 1975 c. 55.

*The Development of Rural Wales Act 1976*

- 97 In section 8(2) of the <sup>M83</sup>Development of Rural Wales Act 1976 (assistance to the Development Board for Rural Wales from public authorities and others) for the words “the Housing Corporation” there shall be substituted “Housing for Wales”.

**Marginal Citations**

**M83** 1976 c. 75.

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*The Rent (Agriculture) Act 1976*

- 98 In section 5(3) of the <sup>M84</sup>Rent (Agriculture) Act 1976 (no statutory tenancy where landlord’s interest belongs to Crown or to local authority etc.) after paragraph (d) there shall be inserted the following paragraph—  
 “(da) Housing for Wales”.

**Marginal Citations**

**M84** 1976 c. 80.

*The Rent Act 1977*

- 99 In section 15(2)(a) of the <sup>M85</sup>Rent Act 1977 (landlord’s interest belonging to housing association etc.) after the words “Housing Corporation” there shall be inserted—  
 “(aa) Housing for Wales”.

**Marginal Citations**

**M85** 1977 c. 42.

- 100 In each of the following provisions of that Act, that is to say, sections 86(2) (a) (tenancies to which Part VI applies), 93(1) (increase of rent without notice to quit) and Schedule 12 (certificates of fair rent), in paragraph 12 (meaning of “secure tenancy”), after the words “Housing Corporation” there shall be inserted “or Housing for Wales”.

*The Criminal Law Act 1977*

- 101 In section 7(5) of the <sup>M86</sup>Criminal Law Act 1977 (authorities who may authorise occupation by protected intending occupier for purposes of offence of adverse occupation of residential premises) after the words “Housing Corporation” there shall be inserted—  
 “(ba) Housing for Wales”.

**Marginal Citations**

**M86** 1977 c. 45.

*The National Health Service Act 1977*

- 102 In section 28A(2)(e) of the <sup>M87</sup>National Health Service Act 1977 (power to make payments towards expenditure on community services) at the end there shall be added the following sub-paragraph “and  
 (vii) Housing for Wales.”

**Marginal Citations**

**M87** 1977 c. 49.



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- 103 In section 28B(1)(b)(v) of that Act (power of Secretary of State to make payments towards expenditure on community services in Wales) for the words “the Housing Corporation” there shall be substituted “Housing for Wales”.

*The Local Government, Planning and Land Act 1980*

- 104 In Schedule 16 to the <sup>M88</sup>Local Government, Planning and Land Act 1980 (bodies to whom Part X of that Act applies) after paragraph 9 there shall be inserted the following paragraph—

“9a. Housing for Wales.”

**Marginal Citations**

**M88** 1980 c. 65.

*The Finance Act 1981*

- 105 In section 107(3) of the <sup>M89</sup>Finance Act 1981 (exemption from stamp duty in case of sale of houses at discount by local authorities etc.) after paragraph (c) there shall be inserted the following paragraph—

“(ca) Housing for Wales.”

**Marginal Citations**

**M89** 1981 c. 35.

*The Housing Act 1985*

- 106 In the <sup>M90</sup>Housing Act 1985 for the words “Housing Corporation” in each place where they occur there shall be substituted “Corporation”.

**Marginal Citations**

**M90** 1985 c. 68.

<sup>F99</sup>107 .....

**Textual Amendments**

**F99** Sch. 17 Pt. II para. 107 repealed (with savings) (1.10.1996) by S.I. 1996/2325, art. 4(1)-(3), Sch. 1 Pt. I

- 108 In section 57 of that Act (index of defined expressions: Part II) after the entry relating to “compulsory disposal” there shall be inserted—

“the Corporation»section 6A”.

- 109 In section 117 of that Act (index of defined expressions: Part IV) after the entry relating to “co-operative housing association” there shall be inserted—

“the Corporation» section 6A”.

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- 110 In section 188 of that Act (index of defined expressions: Part V) after the entry relating to “co-operative housing association” there shall be inserted—  
“the Corporation» section 6A”.
- 111 In section 238 of that Act (index of defined expressions: Part VII) after the entry relating to “clearance area” there shall be inserted—  
“the Corporation» section 6A”.
- 112 In section 459 of that Act (index of defined expressions: Part XIV) after the entry relating to “building society” there shall be inserted—  
“the Corporation section» 6A”.
- 113 In section 577 of that Act (index of defined expressions: Part XVI) after the entry relating to “co-operative housing association” there shall be inserted—  
“the Corporation» section 6A”.

*The Landlord and Tenant Act 1987*

- 114 In section 58(1) of the <sup>M91</sup>Landlord and Tenant Act 1987 (exempt landlords) after paragraph (e) there shall be inserted the following paragraph—  
“(ea) Housing for Wales”.

**Marginal Citations**

**M91** 1987 c. 31.

*The Income and Corporation Taxes Act 1988*

- 115 In section 376(4) of the <sup>M92</sup>Income and Corporation Taxes Act 1988 (qualifying borrowers and lenders) after paragraph (k) there shall be inserted the following paragraph—  
“(ka) Housing for Wales.”

**Marginal Citations**

**M92** 1988 c. 1.

- 116 In section 560(2)(e) of that Act (persons who are sub-contractors or contractors for the purposes of Chapter IV of Part XIII of that Act) after the words “Housing Corporation” there shall be inserted “Housing for Wales”.

SCHEDULE 18

Section 140.

ENACTMENTS REPEALED

Chapter	Short title	Extend of repeal
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14 & 15 Geo. VI c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	Section 18(2).
1976 c.80.	The Rent (Agriculture) Act 1976.	In section 4(2) the words “or, as the case may be, subsection (4)”. In section 13(3) the words “68, 69” and “or Part II of Schedule 11 or Schedule 12 to that Act”. In Schedule 4, in Part I, paragraph 2(2).
1977 c.42.	The Rent Act 1977.	Section 16A. Sections 19 to 21. In section 63, in subsection (1), paragraph (b) and the word “and” immediately preceding it; in subsection (2) in paragraph (a), the words “and deputy rent officers”, in paragraph (b), the words “or deputy rent officer”, in paragraph (d) the words “and deputy rent officers” and the word “and” at the end of the paragraph, and paragraph (e); in subsection (3), the words “and deputy rent officers”; and in subsection (7)(b), the words “and deputy rent officers”. In section 67, in subsection (5), the words “and sections 68 and 69 of this Act” and in subsection (7), the words “Subject to section 69(4) of this Act.” Sections 68 and 69. In section 74, in subsection (2), in paragraph (a) “69”, in paragraph (b) the words “or II” and paragraph (c). In section 77(1) the words “or the local authority”. In section 80(1) the words “or the local authority”. Section 81A(1)(a). In section 87, in subsection (2), in paragraph (a) “69” and in paragraph (c) the words “and 12”. In section 88(2) the words “then, subject to section 89

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		of this Act”.Section 89.In section 103(1) the words “or the local authority”.In section 137 the words “this Part of”.In Schedule 1, in paragraph 1 the words “or, as the case may be, paragraph 3”, in paragraph 4, the words “or 3”, and paragraph 7.In Schedule 2, paragraph 6(3).Schedule 8.In Schedule 11, Part II.Schedule 12.In Schedule 14, paragraph 4.In Schedule 15, in Part IV, paragraph 4(2).In Schedule 20, paragraph 2(2).In Schedule 24, paragraph 8(3).
1977 c. 43.	The Protection from Eviction Act 1977.	In section 7(3)(c) the words from “under” to “1977)”.
1980 c.51.	The Housing Act 1980.	Section 52.Sections 56 to 58.Section 59(1).Section 60.Section 73(2).Section 76(2).In Schedule 9, paragraph 2.In Schedule 10, paragraph 2.In Schedule 25, paragraph 36, in paragraph 40 “68 (4)” and paragraphs 46 and 63.
1985 c. 51.	The Local Government Act 1985.	In Schedule 13, in paragraph 21, the words from “and section 19(5)(aa)” onwards.
1985 c.68.	The Housing Act 1985.	In section 80, in subsection (1) the words from “the Housing Corporation” to “charity or”, the words “housing association or” and subsection (2).Sections 199 to 201.In Schedule 5, in paragraph 3 the word “or” immediately following the entry for section 55 of the Housing Associations Act 1985; paragraphs 6 and 8.
1985 c.69.	The Housing Associations Act 1985.	In section 3(2) the words “of housing associations maintained under this section”.In section 18(3) the words from “and the

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		Corporation” onwards. In section 40, the entries relating to housing association grant and revenue deficit grant. Sections 41 to 57. Section 62. In section 73, the entries relating to approved de-velopment programme, hostel deficit grant, housing association grant, housing project, revenue deficit grant, shared ownership agreement and shared ownership lease. Section 75(1)(d). In section 87(1) the words “registered housing associations and other”. In section 107, in subsection (3) the entries relating to sections 4, 44 and 45 and 52, and in subsection (4) the words “section 4(3)(h)”. In Schedule 5, in paragraph 5(3) of Part I and in paragraph 5(3) of Part II, the words “at such times and in such places as the Treasury may direct, and” and the words “with the approval of the Treasury”. In Schedule 6, paragraph 3(3) (b).
1986 c.63.	The Housing and Planning Act 1986.	Section 7. Section 12. In section 13, subsections (1) to (3) and (5). Section 19. In Schedule 4, paragraphs 1(3) and 10. In Schedule 5, paragraph 8.
1986 c.65.	The Housing (Scotland) Act 1986.	Section 13(1). Sections 14 to 16. In Schedule 2, in paragraph 4(8), subparagraph (a) and, in subparagraph (b), the words “section 4(3)(h)”.
1987 c.26.	The Housing (Scotland) Act 1987.	In section 61(4)(b) the word “or” at the end of subparagraph (v) and at the end of subparagraph (vi).
1987 c.31.	The Landlord and Tenant Act 1987.	In section 3(1)(b) the word “or”. Section 4(2) (a)(ii). Section 45. Section

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		60(2).In Schedule 4, paragraph 7.
1988 c.9.	The Local Government Act 1988.	Section 24(5)(b).
1988 c.43.	The Housing (Scotland) Act 1988.	Section 4(4).In section 38, the words “subject to subsection (2B) below” and “by reason only of conduct falling within paragraph (b) of that subsection”.Schedule 3.In Schedule 9, paragraphs 6(b) and 7.In Schedule 10, the entry relating to the Housing Associations Act 1985.

- 1 The repeal of sections 19 to 21 of the Rent Act 1977 does not apply with respect to any tenancy or contract entered into before the coming into force of Part I of this Act nor to any other tenancy or contract which, having regard to section 36 of this Act, can be a restricted contract.
- 2 The repeal of section 52 of the Housing Act 1980 (protected shorthold tenancies) does not apply with respect to any tenancy entered into before the coming into force of Part I of this Act nor to any other tenancy which, having regard to section 34 of this Act, can be a protected shorthold tenancy.
- 3 The repeal of sections 56 to 58 of the Housing Act 1980 does not have effect in relation to any tenancy to which, by virtue of section 37(2) of this Act, section 1(3) of this Act does not apply.
- 4 The repeals in section 80 of the Housing Act 1985—
  - (a) have effect (subject to section 35(5) of this Act) in relation to any tenancy or licence entered into before the coming into force of Part I of this Act unless, immediately before that time, the landlord or, as the case may be, the licensor is a body which, in accordance with the repeals, would cease to be within the said section 80; and
  - (b) do not have effect in relation to a tenancy or licence entered into on or after the coming into force of Part I of this Act if the tenancy or licence falls within any of paragraphs (c) to (f) of subsection (4) of section 35 of this Act [<sup>F100</sup>and
  - (c) do not have effect in relation to a tenancy while it is a housing association tenancy.]

#### Textual Amendments

**F100** Word and Sch. 18 para. 4(c) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 112](#)

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