

*Status: Point in time view as at 01/09/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Anti-social Behaviour Act 2003, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 14

#### DEMOTED TENANCIES

- 1 In the Housing Act 1996 (c. 52) after section 143 the following sections are inserted as Chapter 1A of Part 5—

#### *“General provisions*

#### *Demoted tenancies*

#### **143A Demoted tenancies**

- (1) This section applies to a periodic tenancy of a dwelling-house if each of the following conditions is satisfied.
- (2) The first condition is that the landlord is either a local housing authority or a housing action trust.
- (3) The second condition is that the tenant condition in section 81 of the Housing Act 1985 is satisfied.
- (4) The third condition is that the tenancy is created by virtue of a demotion order under section 82A of that Act.
- (5) In this Chapter—
  - (a) a tenancy to which this section applies is referred to as a demoted tenancy;
  - (b) references to demoted tenants must be construed accordingly.

#### *Duration of demoted tenancy*

#### **143B Duration of demoted tenancy**

- (1) A demoted tenancy becomes a secure tenancy at the end of the period of one year (the demotion period) starting with the day the demotion order takes effect; but this is subject to subsections (2) to (5).
- (2) A tenancy ceases to be a demoted tenancy if any of the following paragraphs applies—
  - (a) either of the first or second conditions in section 143A ceases to be satisfied;
  - (b) the demotion order is quashed;
  - (c) the tenant dies and no one is entitled to succeed to the tenancy.

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- (3) If at any time before the end of the demotion period the landlord serves a notice of proceedings for possession of the dwelling-house subsection (4) applies.
- (4) The tenancy continues as a demoted tenancy until the end of the demotion period or (if later) until any of the following occurs—
  - (a) the notice of proceedings is withdrawn by the landlord;
  - (b) the proceedings are determined in favour of the tenant;
  - (c) the period of 6 months beginning with the date on which the notice is served ends and no proceedings for possession have been brought.
- (5) A tenancy does not come to an end merely because it ceases to be a demoted tenancy.

#### *Change of landlord*

#### **143C Change of landlord**

- (1) A tenancy continues to be a demoted tenancy for the duration of the demotion period if—
  - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
  - (b) during the demotion period the interest of the landlord transfers to another person who is a local housing authority or a housing action trust.
- (2) Subsections (3) and (4) apply if—
  - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
  - (b) during the demotion period the interest of the landlord transfers to a person who is not such a body.
- (3) If the new landlord is a registered social landlord or a person who does not satisfy the landlord condition the tenancy becomes an assured shorthold tenancy.
- (4) If the new landlord is not a registered social landlord and does satisfy the landlord condition the tenancy becomes a secure tenancy.
- (5) The landlord condition must be construed in accordance with section 80 of the Housing Act 1985.

#### *Proceedings for possession*

#### *Proceedings for possession*

#### **143D Proceedings for possession**

- (1) The landlord may only bring a demoted tenancy to an end by obtaining an order of the court for possession of the dwelling-house.

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- (2) The court must make an order for possession unless it thinks that the procedure under sections 143E and 143F has not been followed.
- (3) If the court makes such an order the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

#### *Notice of proceedings for possession*

### **143E Notice of proceedings for possession**

- (1) Proceedings for possession of a dwelling-house let under a demoted tenancy must not be brought unless the landlord has served on the tenant a notice of proceedings under this section.
- (2) The notice must—
  - (a) state that the court will be asked to make an order for the possession of the dwelling-house;
  - (b) set out the reasons for the landlord's decision to apply for the order;
  - (c) specify the date after which proceedings for the possession of the dwelling-house may be begun;
  - (d) inform the tenant of his right to request a review of the landlord's decision and of the time within which the request must be made.
- (3) The date specified under subsection (2)(c) must not be earlier than the date on which the tenancy could (apart from this Chapter) be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.
- (4) The court must not entertain proceedings begun on or before the date specified under subsection (2)(c).
- (5) The notice must also inform the tenant that if he needs help or advice—
  - (a) about the notice, or
  - (b) about what to do about the notice,he must take the notice immediately to a Citizen's Advice Bureau, a housing aid centre, a law centre or a solicitor.

#### *Review of decision to seek possession*

### **143F Review of decision to seek possession**

- (1) Before the end of the period of 14 days beginning with the date of service of a notice for possession of a dwelling-house let under a demoted tenancy the tenant may request the landlord to review its decision to seek an order for possession.
- (2) If a request is made in accordance with subsection (1) the landlord must review the decision.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with a review under this section.
- (4) The regulations may include provision—

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- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision;
  - (b) as to the circumstances in which the tenant is entitled to an oral hearing, and whether and by whom he may be represented at the hearing.
- (5) The landlord must notify the tenant—
- (a) of the decision on the review;
  - (b) of the reasons for the decision.
- (6) The review must be carried out and notice given under subsection (5) before the date specified in the notice of proceedings as the date after which proceedings for possession of the dwelling-house may be begun.

*Effect of proceedings for possession*

**143G Effect of proceedings for possession**

- (1) This section applies if the landlord has begun proceedings for the possession of a dwelling-house let under a demoted tenancy and—
- (a) the demotion period ends, or
  - (b) any of paragraphs (a) to (c) of section 143B(2) applies (circumstances in which a tenancy ceases to be a demoted tenancy).
- (2) If any of paragraphs (a) to (c) of section 143B(2) applies the tenancy ceases to be a demoted tenancy but the landlord (or the new landlord as the case may be) may continue the proceedings.
- (3) Subsection (4) applies if in accordance with subsection (2) a tenancy ceases to be a demoted tenancy and becomes a secure tenancy.
- (4) The tenant is not entitled to exercise the right to buy unless—
- (a) the proceedings are finally determined, and
  - (b) he is not required to give up possession of the dwelling-house.
- (5) The proceedings must be treated as finally determined if—
- (a) they are withdrawn;
  - (b) any appeal is abandoned;
  - (c) the time for appealing expires without an appeal being brought.

*Succession*

*Succession to demoted tenancy*

**143H Succession to demoted tenancy**

- (1) This section applies if the tenant under a demoted tenancy dies.
- (2) If the tenant was a successor, the tenancy—
- (a) ceases to be a demoted tenancy, but
  - (b) does not become a secure tenancy.

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- (3) In any other case a person is qualified to succeed the tenant if—
- (a) he occupies the dwelling-house as his only or principal home at the time of the tenant's death,
  - (b) he is a member of the tenant's family, and
  - (c) he has resided with the tenant throughout the period of 12 months ending with the tenant's death.
- (4) If only one person is qualified to succeed under subsection (3) the tenancy vests in him by virtue of this section.
- (5) If there is more than one such person the tenancy vests by virtue of this section in the person preferred in accordance with the following rules—
- (a) the tenant's spouse or (if the tenant has no spouse) the person mentioned in section 143P(1)(b) is to be preferred to another member of the tenant's family;
  - (b) if there are two or more other members of the tenant's family the person preferred may be agreed between them or (if there is no such agreement) selected by the landlord.

*No successor tenant: termination*

#### **143I No successor tenant: termination**

- (1) This section applies if the demoted tenant dies and no person is qualified to succeed to the tenancy as mentioned in section 143H(3).
- (2) The tenancy ceases to be a demoted tenancy if either subsection (3) or (4) applies.
- (3) This subsection applies if the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate unless the vesting or other disposal is in pursuance of an order under—
- (a) section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc);
  - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (4) This subsection applies if it is known that when the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate it will not be in pursuance of an order mentioned in subsection (3).
- (5) A tenancy which ceases to be a demoted tenancy by virtue of this section cannot subsequently become a secure tenancy.

*Successor tenants*

#### **143J Successor tenants**

- (1) This section applies for the purpose of sections 143H and 143I.

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- (2) A person is a successor to a secure tenancy which is terminated by a demotion order if any of subsections (3) to (6) applies to him.
- (3) The tenancy vested in him—
  - (a) by virtue of section 89 of the Housing Act 1985 or section 133 of this Act;
  - (b) under the will or intestacy of the preceding tenant.
- (4) The tenancy arose by virtue of section 86 of the Housing Act 1985 and the original fixed term was granted—
  - (a) to another person, or
  - (b) to him jointly with another person.
- (5) He became the tenant on the tenancy being assigned to him unless—
  - (a) the tenancy was assigned in proceedings under section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc), and
  - (b) neither he nor the other party to the marriage was a successor.
- (6) He became the tenant on assignment under section 92 of the Housing Act 1985 if he himself was a successor to the tenancy which he assigned in exchange.
- (7) A person is the successor to a demoted tenancy if the tenancy vested in him by virtue of section 143H(4) or (5).
- (8) A person is the successor to a joint tenancy if he has become the sole tenant.

#### *Assignment*

#### *Restriction on assignment*

### **143K Restriction on assignment**

- (1) A demoted tenancy is not capable of being assigned except as mentioned in subsection (2).
- (2) The exceptions are assignment in pursuance of an order made under—
  - (a) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc.);
  - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).

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## *Repairs*

### *Right to carry out repairs*

#### **143L Right to carry out repairs**

The Secretary of State may by regulations under section 96 of the Housing Act 1985 (secure tenants: right to carry out repairs) apply to demoted tenants any provision made under that section in relation to secure tenants.

### *Provision of information*

### *Provision of information*

#### **143M Provision of information**

- (1) This section applies to a local housing authority or a housing action trust if it is the landlord of a demoted tenancy.
- (2) The landlord must from time to time publish information about the demoted tenancy in such form as it thinks best suited to explain in simple terms and so far as it considers appropriate the effect of—
  - (a) the express terms of the demoted tenancy;
  - (b) the provisions of this Chapter;
  - (c) the provisions of sections 11 to 16 of the Landlord and Tenant Act 1985 (landlord's repairing obligations).
- (3) The landlord must ensure that information published under subsection (2) is, so far as is reasonably practicable, kept up to date.
- (4) The landlord must supply the tenant with—
  - (a) a copy of the information published under subsection (2);
  - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law.
- (5) The statement required by subsection (4)(b) must be supplied on the grant of the tenancy or as soon as practicable afterwards.

### *Supplementary*

### *Jurisdiction of county court*

#### **143N Jurisdiction of county court**

- (1) A county court has jurisdiction—
  - (a) to determine questions arising under this Chapter;
  - (b) to entertain proceedings brought under this Chapter;

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- (c) to determine claims (for whatever amount) in connection with a demoted tenancy.
- (2) The jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of section 143M(4)(b) (written statement of certain terms of tenancy) is accurate.
- (3) For the purposes of subsection (2) it is immaterial that no relief other than a declaration is sought.
- (4) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court he is not entitled to recover any costs.
- (5) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purposes of giving effect to this section.
- (6) The rules and directions may provide—
  - (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this section;
  - (b) for the conduct of proceedings in private.
- (7) The power to make rules must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

*Meaning of dwelling house*

**143O Meaning of dwelling house**

- (1) For the purposes of this Chapter a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house must be treated for the purposes of this Chapter as part of the dwelling-house unless the land is agricultural land which would not be treated as part of a dwelling-house for the purposes of Part 4 of the Housing Act 1985.

*Members of a person's family*

**143P Members of a person's family**

- (1) For the purposes of this Chapter a person is a member of another's family if—
  - (a) he is the spouse of that person;
  - (b) he and that person live together as a couple in an enduring family relationship, but he does not fall within paragraph (c);
  - (c) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b) it is immaterial that two persons living together in an enduring family relationship are of the same sex.
- (3) For the purposes of subsection (1)(c)—
  - (a) a relationship by marriage must be treated as a relationship by blood;



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- (b) a relationship of the half-blood must be treated as a relationship of the whole blood;
- (c) a stepchild of a person must be treated as his child.”

#### Commencement Information

- I1** Sch. 1 para. 1 in force at 30.6.2004 for E. by S.I. 2004/1502, art. 2(a)(iii)
- I2** Sch. 1 para. 1 in force at 30.9.2004 for specified purposes for W. by S.I. 2004/2557, art. 2(a)(ii)
- I3** Sch. 1 para. 1 in force at 30.4.2005 for W. insofar as not already in force by S.I. 2005/1225, art. 2(b)

- 2 (1) The Housing Act 1985 (c. 68) is amended as follows.
- (2) In section 105 (requirement to consult secure tenants on certain housing management matters) after subsection (6) there is inserted the following subsection—
- “(7) For the purposes of this section—
- (a) secure tenants include demoted tenants within the meaning of section 143A of the Housing Act 1996;
  - (b) secure tenancies include demoted tenancies within the meaning of that section.”
- (3) In section 171B (extent of preserved right to buy) after subsection (1) there is inserted the following subsection—
- “(1A) A person to whom this section applies ceases to have the preserved right to buy if the tenancy of a relevant dwelling-house becomes a demoted tenancy by virtue of a demotion order under section 6A of the Housing Act 1988.”
- (4) In Schedule 1 (tenancies which are not secure tenancies) after paragraph 1A (introductory tenancies) there is inserted the following paragraph—
- “1B A tenancy is not a secure tenancy if it is a demoted tenancy within the meaning of section 143A of the Housing Act 1996.”
- (5) In Schedule 4 (qualifying period for right to buy and discount) after paragraph 9 (the tenant condition) there is inserted the following paragraph—
- “9A The tenant condition is not met during any period when a tenancy is a demoted tenancy by virtue of section 20B of the Housing Act 1988 or section 143A of the Housing Act 1996.”

#### Commencement Information

- I4** Sch. 1 para. 2 in force at 30.6.2004 for E. by S.I. 2004/1502, art. 2(a)(iii)
- I5** Sch. 1 para. 2 in force at 30.9.2004 for specified purposes for W. by S.I. 2004/2557, art. 2(a)(ii)
- I6** Sch. 1 para. 2 in force at 30.4.2005 for W. insofar as not already in force by S.I. 2005/1225, art. 2(b)

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