

SCHEDULE 5 TRANSITION FROM REGIMES UNDER EARLIER ENACTMENTS

PART 2

CONVERSION OF TENANCIES UNDER PREVIOUS REGIMES

Change of tenancy status by agreement

- 3 (1) The Housing (Scotland) Act 1988 is amended as follows.
- (2) After section 12(2) there is inserted—
- “(3) Subsection (1) is subject to section 46A.”.
- (3) After section 46 there is inserted—

“Phasing out of assured tenancies

46A Change to private residential tenancy by agreement

- (1) The landlord and the tenant under an assured tenancy may agree that on a day specified by them, the tenancy will cease to be an assured tenancy.
- (2) On the day specified by the landlord and the tenant under subsection (1), the tenancy—
- (a) ceases to be an assured tenancy, and
- (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).
- (3) But an agreement under subsection (1) is of no effect if, for a reason other than the tenancy being an assured tenancy, it is one which schedule 1 of the 2016 Act states cannot be a private residential tenancy.”.

Change of tenancy status on succession

- 4 After section 3A of the Rent (Scotland) Act 1984 there is inserted—

“3B Succession after the Private Housing (Tenancies) (Scotland) Act 2016 comes into force

- (1) Subsection (2) applies where—
- (a) the sole tenant of a dwelling-house under a protected tenancy or a statutory tenancy dies on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force, and
- (b) as a result of that death, an individual becomes the tenant of the dwelling-house by virtue of section 3(1)(b) or 3A above.
- (2) As soon as the individual becomes the tenant, the individual’s tenancy of the dwelling-house—
- (a) ceases to be a statutory tenancy or a statutory assured tenancy (as the case may be), and

Status: This is the original version (as it was originally enacted).

- (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.

5 After section 31 of the Housing (Scotland) Act 1988 there is inserted—

“31A Succession after the Private Housing (Tenancies) (Scotland) Act 2016 comes into force

- (1) Subsection (2) applies where—
 - (a) a sole tenant under an assured tenancy dies on or after the day that section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 comes into force, and
 - (b) an individual succeeds to the tenancy.
- (2) As soon as the individual becomes the tenant, the tenancy—
 - (a) ceases to be an assured tenancy (if, but for this section, it would have been one), and
 - (b) becomes a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016.”.