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SCHEDULES

SCHEDULE 3

Section 71.

APPLICATION OF PART II OF ACT OF 1961 AS AMENDED TO SCOTLAND

PART I

ADAPTATIONS OF PART II OF ACT OF 1961

1 For any reference to the Housing Act 1957 there shall be substituted a reference to the Housing (Scotland) Act 1950.

2 (a) Any provision for an application to a county court shall be construed as a provision for an application to the sheriff, and references to a county court shall be construed accordingly; and any such application to the sheriff shall be conducted and disposed of in like manner as proceedings brought under the Small Debt (Scotland) Acts 1837 to 1889, and the determination of the sheriff on any such application shall be final and conclusive ;

(b) Any provision for an appeal to a magistrates' court or to a county court shall be construed as a provision for an appeal to the sheriff, and references to a magistrates' court or to a county court shall be construed accordingly ; and the provisions of section 166 of the Housing (Scotland) Act 1950 (other than subsection (3) of that section) shall apply to any such appeal to the sheriff as they apply to appeals to the sheriff under that Act.

3 For any reference to the Minister there shall be substituted a reference to the Secretary of State.

4 Any reference to an agent or trustee shall include a reference to a tutor, curator, or factor.

5 In section 12—

(a) in subsection (6), the reference to thirty-five days shall be a reference to forty-two days ; and

(b) for subsection (7) there shall be substituted the following subsection—

"(7) As soon as practicable after an order under this section has come into force the local authority shall cause the order to be recorded in the General Register of Sasines, and if any such order is revoked the authority shall as soon as practicable cause to be recorded in the General Register of Sasines a notice stating that the order has been revoked.".

6 In section 13(1), for the words " in common use ", wherever they occur, there shall be substituted the words " used in common by persons living in the house " , and after paragraph (c) there shall be inserted the following paragraph—

"(cc) of the roof and windows forming part of the house".

7 In section 15—

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(a) in subsection (1)(a), for the reference to subsection (2) of section thirty-nine of the principal Act there shall be substituted a reference to section 7(3) of the principal Act; and

(b) in subsection (1)(b), the words " at a rackrent", wherever they occur, shall be omitted.

8 In section 16—

(a) in subsection (2), the words " under the Fire Services Act, 1947 " shall be omitted, for the words " that Act " there shall be substituted the words " the Fire Services Act 1947 " , and the words " and, in the administrative county of London, shall not serve such a notice except with the consent of the London County Council " shall be omitted ;

(b) " fire authority" means, in relation to any area, the authority for the time being constituted the fire authority for that area by the Fire Services Act 1947, except that in relation to an area the fire brigade for which is administered by such a joint committee as is mentioned in section 36(4)(b) of that Act, it means that joint committee.

9 In section 18—

(a) for subsections (3) to (5) there shall be substituted the following subsections—

"(3) Subsections (3), (4) and (5) of section 8 of the principal Act (which relate to the recovery by a local authority of expenses incurred by them in executing works on an insanitary house) shall, subject to any necessary modifications, apply for the purpose of enabling a local authority to recover any expenses reasonably incurred by them under this section in carrying out works in pursuance thereof as they apply for the purpose of enabling a local authority to recover the first-mentioned expenses, so, however, that the expenses incurred by a local authority in carrying out works in pursuance of this section shall be recoverable from the person on whom the notice was served or, if he was only properly served with the notice as trustee, tutor, curator, factor or agent for or of some other person, then either from him or from that other person, or in part from him and as to the remainder from that other person.

(4) Section 16 of the Act of 1950 (appeals) shall apply in relation to a demand by a local authority for the recovery of expenses incurred by them in carrying out works in pursuance of this section and in relation to an order made by a local authority with respect to any such expenses.

(5) Where under this section a local authority have themselves incurred expenses in the execution of works, it shall be competent for them to make a charging order in favour of themselves in respect of such expenses, and subsections (2) to (4) of section 20, and section 21, of the principal Act shall, with any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under the said section 20 and as if any reference in the said section 21 to Part II of the principal Act included a reference to this Part of this Act.";

(b) in subsection (6)(b), for the words from " the number " to " were executed" there shall be substituted the words " those works had not been executed ";

(c) subsection (7) shall not apply ;

(d) in subsection (8), the words " or the highest rate " shall be omitted, and for the reference to subsection (6) of section ten of the principal Act there shall be substituted a reference to section 8(3) of the principal Act;

(e) subsection (9) shall not apply.

10 In section 19—

(a) in subsection (8), for the reference to thirty-five days there shall be a reference to forty-two days ;

(b) in subsection (9)(c), after the word " names " there shall be inserted the words " ages and sex ",

and after the words " individuals and " there shall be inserted the words " the names of ";

(c) in subsection (11), the references to section ninety of the principal Act, and the words from " In this subsection " to the end, shall be omitted ; and

(d) in subsection (12), the words from " and shall be " to the end shall be omitted.

11 Section 20 shall not apply.

12 In section 21(1), after paragraph (b) there shall be inserted the words " (being in either case a building all the dwellings in which are owned by the same person) ".

13 In section 22(4), for the reference to section one hundred and seventy of the principal Act there shall be substituted a reference to section 168 of the principal Act.

14 In section 23—

(a) for subsection (2) there shall be substituted the following subsection—

"(2) If the superior or owner of any lands and heritages gives notice to the local authority of his estate in those lands and heritages, the authority shall give to him notice of any proceedings taken by them in pursuance of the foregoing provisions of this Part of this Act in relation to those lands and heritages or any part thereof.";

(b) in subsection (3), for the reference to any covenant or contract there shall be substituted a reference to any agreement or stipulation ;

(c) in subsection (7)—

(i) for paragraph (a) there shall be substituted the following paragraph—

"(a) any person holding the interest of the lessee under a sublease of the house ; and";

(ii) in paragraph (b), " the Rent Acts" means the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 ;

(d) subsections (8) and (9) shall not apply.

15 Sections 24 to 27 shall not apply.

PART II

ADAPTATIONS OF SECTIONS 64 TO 70 OF THIS ACT

1 In section 64—

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(a) subsections (1) to (5) and (8) shall not apply;

(b) in subsections (6) and (7), for the references to a mortgagee there shall be substituted references to the creditor in a heritable security, and " heritable security " has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by *ex facie* absolute disposition or assignation.

2 In section 65—

(a) in subsection (4), for the references to the Act of 1957 there shall be substituted references to the Act of 1950;

(b) in subsection (5)(b), for the reference to the court there shall be substituted a reference to the sheriff.

3 In section 66 for the reference to the Act of 1957 there shall be substituted a reference to the Act of 1950.

4 In section 68 any reference to a justice of the peace shall include a reference to the sheriff and to a magistrate.

5 In section 69 for the references to a tenement block there shall be substituted references to a tenement all the dwellings in which are owned by the same person.

PART III

PART II OF ACT OF 1961, AS AMENDED, IN ITS APPLICATION TO SCOTLAND

"Amendments of Housing (Scotland) Act 1950

Houses in multiple occupation

12 Power to apply management code to houses in multiple occupation.

(1) If it appears to a local authority that a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family is in an unsatisfactory state in consequence of failure to maintain proper standards of management and, accordingly, that it is necessary that the regulations made under the following provisions of this Part of this Act should apply to the house, the local authority may by order direct that those regulations shall so apply; and so long as the order is in force the regulations shall apply in relation to the house accordingly.

(2) Not less than twenty-one days before making an order under this section, the local authority shall—

(a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to make the order, and

(b) post such a notice in some position in the house where it is accessible to those living in the house,

and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to make the order.

(3) An order under this section shall come into force on the date on which it is made, and the local authority shall within seven days from the making of the order—

(a) serve a copy of the order on an owner of the house and on every person who is to the knowledge of the local authority a lessee of the house, and

(b) post a copy of the order in some position in the house where it is accessible to those living in the house.

(4) A person on whom a copy of the order is served under the last foregoing subsection, and any other person who is a lessee of the house, may, within fourteen days from the latest date by which copies of the order are required to be served, appeal to the sheriff on the ground that the making of the order was unnecessary.

(5) On an appeal under the last foregoing subsection the sheriff shall take into account the state of the house at the time when the local authority under subsection (2) of this section served notice of their intention to make the order, as well as at the time of the making of the order, and shall disregard any improvement in the state of the house between those times unless the sheriff is satisfied that effective steps have been taken to ensure that the house will in future be kept in a satisfactory state ; and if the sheriff allows the appeal, he shall revoke the order, but without prejudice to its operation prior to the revocation, and without prejudice to the making of a further order.

(6) A local authority may at any time on the application of a person having an estate or interest in the house revoke an order under this section, and if a local authority refuse an application under this subsection, or do not within forty-two days from the making of the application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the sheriff and the sheriff, if of opinion that there has been a substantial change in the circumstances, since the making of the order, and that it is in other respects just to do so, may revoke the order.

(7) As soon as practicable after an order under this section has come into force the local authority shall cause the order to be recorded in the General Register of Sasines, and if any such order is revoked the authority shall as soon as practicable cause to be recorded in the General Register of Sasines a notice stating that the order has been revoked.

13 Regulations prescribing management code.

(1) With a view to providing a code for the management of houses which may be applied under the last foregoing section, the Secretary of State may by regulations contained in a statutory instrument make provision for the purpose of ensuring that the person managing a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family observes proper standards of management.

Without prejudice to the generality of the foregoing provisions of this section, regulations under this section may, in particular, require the person managing the house to ensure the repair, maintenance, cleansing and good order—

(a) of all means of water supply and drainage in the house,

(b) of kitchens, bathrooms and water closets used in common by persons living in the house,

(c) of sinks and wash-basins used in common by persons living in the house,

(cc) of the roof and windows forming part of the house,

(d) of common staircases, corridors and passage ways, and

(e) of outbuildings, yards and gardens used in common by persons living in the house,

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and to make satisfactory arrangements for the disposal of refuse and litter from the house.

(2) For the purposes of the foregoing subsection and regulations made under this section, the person managing a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family shall be defined as—

(a) the person who is an owner or a lessee of the house and who, directly or through a trustee, tutor, curator, factor or agent, receives rents or other payments from persons who are tenants of parts of the house, or who are lodgers, and

(b) where those rents or other payments are received through another person as his trustee, tutor, curator, factor or agent, that other person,

but the foregoing definition may be varied or replaced by regulations under this section.

(3) Regulations under this section—

(a) may make different provision for different types of houses,

(b) may provide for keeping a register of the names and addresses of those who are managers of houses,

(c) may impose duties on persons who have an estate or interest in a house or any part of a house to which the regulations apply as to the giving of information to the local authority, and in particular may make it the duty of any person who acquires or ceases to hold an estate or interest in the house to notify the local authority,

(d) may impose duties on persons who live in the house for the purpose of ensuring that the person managing the house, can effectively carry out the duties imposed on him by the regulations,

(e) may authorise the local authority to obtain information as to the number of individuals or households accommodated in the house,

(f) may make it the duty of the person managing the house to cause a copy of the order, and of the regulations, to be displayed in a suitable position in the house, and

(g) may contain such other incidental and supplementary provisions as may appear to the Secretary of State to be expedient.

(4) If any person knowingly contravenes or without reasonable excuse fails to comply with any regulation under this section as applied under this Act in relation to any house he shall be liable on summary conviction—

(a) where he has not previously been convicted of an offence under this section, to a fine not exceeding twenty pounds, and

(b) where he has previously been convicted of an offence under this section, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

(5) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

14 Power to require doing of work to make good neglect of proper standards of management.

(1) If in the opinion of the local authority the condition of a house to which regulations under the last foregoing section for the time being apply is defective in consequence of neglect to comply with the requirements imposed by the regulations, or, in respect of a period falling wholly or partly before the regulations applied to the house, neglect to

comply with standards corresponding to the requirements imposed by the regulations, the local authority may serve on the person managing the house (as defined by or under the last foregoing section) a notice specifying the works which in the opinion of the local authority are required to make good the neglect, and requiring the person on whom the notice is served to execute those works.

(2) ' If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house as so defined, the notice under this section may be served by addressing it to him by the description of ' manager of the house' (naming the house to which it relates) and by delivering it to some person on the premises.

(3) A notice under this section shall require the execution of the works within such period, being not less than twenty-one days from service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.

(4) Where a local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or the creditor in a heritable security over the house of the fact that such a notice has been served.

(5) A person on whom a notice is served under this section and any other person who is an owner or lessee of the house, or the creditor in a heritable security over the house, to which the notice relates, may, within twenty-one days of service of the notice, or within such longer period as the local authority may in writing allow, appeal to the sheriff on any of the following grounds which are appropriate in the circumstances of the particular case—

(a) that the condition of the house did not justify the local authority in requiring the execution of the works specified in the notice,

(b) that there has been some informality, defect or error in, or in connection with, the notice,

(c) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary,

(d) that the time within which the works are to be executed is not reasonably sufficient for the purpose, and

(e) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from the execution of the works, and that that person ought to pay the whole or any part of the expenses of executing the works.

(6) If and so far as an appeal under this section is based on the ground of some informality, defect or error in, or in connection with, the notice, the sheriff shall dismiss the appeal if he is satisfied that the informality, defect, or error was not a material one.

(7) Where the grounds on which an appeal is brought under this section include the ground specified in paragraph (e) of subsection (5) of this section, 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 sheriff may make such order as he thinks fit with respect to the payment to be made by any such other person to the appellant, or, where the work is executed by the local authority, to the local authority.

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15 Power to require execution of works of other description.

(1) If the condition of a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family, is, in the opinion of the local authority, so far defective with respect to any of the following matters, that is to say—

natural and artificial lighting,

ventilation,

water supply,

personal washing facilities,

drainage and sanitary conveniences,

facilities for the storage, preparation and cooking of food and for the disposal of waste water, or

installations for space heating or for the use of space heating appliances,

having regard to the number of individuals or households, or both, accommodated for the time being on the premises, as not to be reasonably suitable for occupation by those individuals or households, the local authority may serve either—

(a) on the person having control of the house (as defined by section 7(3) of the principal Act), or

(b) on any person to whom the house is let, or on any person who, as the trustee, tutor, curator, factor or agent of a person to whom the house is let, receives rents or other payments from tenants of parts of the house or lodgers in the house,

a notice specifying the works which in the opinion of the local authority are required for rendering the premises reasonably suitable for such occupation as aforesaid, and requiring the person on whom the notice is served to execute those works.

(2) If the local authority are satisfied that after the service of the notice the number of individuals living on the premises has been reduced to a level which will make the work specified in the notice unnecessary, and that, either in consequence of their exercise of the powers conferred by the following provisions of this Part of this Act to limit the number of persons living on the premises or otherwise, that number will be maintained at or below that level, they may notify in writing the person on whom the notice was served of the withdrawal of the notice, but the withdrawal of the notice shall be without prejudice to the issue of a further notice.

(3) A notice under this section shall require the execution of the works within such period, being not less than twenty-one days from the service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.

(4) Where a local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or the creditor in a heritable security over the house of the fact that such a notice has been served.

16 Provision of means of escape from fire.

(1) If it appears to a local authority that a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family, is not provided with such means of escape from fire as the local authority consider necessary, the local authority may, subject to this section, serve on any person on whom a notice may be served under section 15 of this Act a notice specifying the works which in the opinion of the local

authority are required to provide such means of escape, and requiring the person on whom the notice is served to execute those works.

(2) A local authority who are not the fire authority for the area in which the house is situated, or who have, under section 12 of the Fire Services Act 1947, delegated all their functions in respect of that area to another fire authority, shall, before serving a notice under this section, consult with the fire authority concerned.

(3) Subsections (3) and (4) of section 15 of this Act shall apply to a notice under this section as they apply to a notice under that section.

(4) In this section ' fire authority' means, in relation to any area, the authority for the time being constituted the fire authority for that area by the Fire Services Act 1947, except that in relation to an area the fire brigade for which is administered by such a joint committee as is mentioned in section 36(4)(b) of that Act, it means that joint committee.

17 Right of appeal against notice requiring execution of works.

(1) A person on whom a notice is served under either of the two last foregoing sections and any other person who is an owner or lessee of the house, or the creditor in a heritable security over the house, to which the notice relates, may, within twenty-one days from the service of the notice, or within such longer period as the local authority may in writing allow, appeal to the sheriff on any of the following grounds which are appropriate in the circumstances of the particular case—

(a) that the condition of the house did not justify the local authority, having regard to the considerations in section 15(1) of this Act, in requiring the execution of the works specified in the notice, or, in the case of a notice under the last foregoing section, that the notice is not justified by the terms of that section,

(b) that there has been some informality, defect or error in, or in connection with, the notice,

(c) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary,

(d) that the time within which the works are to be executed is not reasonably sufficient for the purpose, and

(e) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from the execution of the works, and that that person ought to pay the whole or any part of the expenses of executing the works.

(2) If and so far as an appeal under this section is based on the ground of some informality, defect or error in, or in connection with, the notice, the sheriff shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(3) Where the grounds upon which an appeal under this section is brought include the ground specified in paragraph (e) of subsection (1) of this section, the sheriff, if satisfied that any other person referred to in the notice of appeal has had proper notice of the appeal, may on the hearing of the appeal make such order as he thinks fit with respect to the payment to be made by that other person to the appellant or, where the work is executed by the local authority, to the local authority.

(4) If on an appeal under this section against a notice served under section 15 of this Act the sheriff is satisfied that the number of persons living in the house has been reduced,

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and that adequate steps (whether by the exercise by the local authority of the powers conferred by the following provisions of this Part of this Act to limit the number of persons living in the house or otherwise) have been taken to prevent that number being again increased, the sheriff may if he thinks fit revoke the notice or vary the list of works specified in the notice.

18 Carrying out of works by local authority.

(1) If a notice under section 14, section 15 or section 16 of this Act is not complied with, then, after the expiration of the time within which the works are required to be executed or, if an appeal has been made against the notice and upon that appeal the notice has been confirmed with or without variation, and the works are not completed within twenty-eight days from the final determination of such appeal or such longer period as the sheriff in determining the appeal may fix, the local authority may themselves do the work required to be done by the notice (with any variation made by the sheriff).

(2) Notwithstanding the foregoing subsection, if the person on whom the notice was served notifies the local authority in writing that he is not able to do the work in question, the local authority may, if they think fit, themselves do the work forthwith.

(3) Subsections (3), (4) and (5) of section 8 of the principal Act (which relate to the recovery by a local authority of expenses incurred by them in executing works on an insanitary house) shall, subject to any necessary modifications, apply for the purpose of enabling a local authority to recover any expenses reasonably incurred by them under this section in carrying out works in pursuance thereof as they apply for the purpose of enabling a local authority to recover the first-mentioned expenses, so, however, that the expenses incurred by a local authority in carrying out works in pursuance of this section shall be recoverable from the person on whom the notice was served or, if he was only properly served with the notice as trustee, tutor, curator, factor or agent for or of some other person, then either from him or from that other person, or in part from him and as to the remainder from that other person.

(4) Section 16 of the Act of 1950 (appeals) shall apply in relation to a demand by a local authority for the recovery of expenses incurred by them in carrying out works in pursuance of this section and in relation to an order made by a local authority with respect to any such expenses.

(5) Where under this section a local authority have themselves incurred expenses in the execution of works, it shall be competent for them to make a charging order in favour of themselves in respect of such expenses, and subsections (2) to (4) of section 20, and section 21, of the principal Act shall, with any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under the said section 20 and as if any reference in the said section 21 to Part II of the principal Act included a reference to this Part of this Act.

(6) If a local authority applies to the sheriff and satisfies him—

(a) that any expenses reasonably incurred by them under this section (with the interest accrued due thereon) have not been, and are unlikely to be, recovered, and

(b) that some person is profiting by the execution of the works in respect of which the expenses were incurred to obtain rents or other payments which would not have been obtainable if those works had not been executed,

the sheriff, if satisfied that that person has had proper notice of the application, may order him to make such payment or payments to the local authority as may appear to the sheriff to be just.

(8) Any interest payable under this section shall be at the rate for the time being fixed under section 8(3) of the principal Act.

18A Penalty for failure to execute works.

(1) Subject to this section, if a person on whom a notice has been served under section 14, section 15 or section 16 of this Act wilfully fails to comply with the notice, he shall be liable on summary conviction—

(a) in the case of a first offence under this subsection, to a fine not exceeding one hundred pounds, and

(b) in the case of a second or subsequent offence under this subsection to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

(2) If the local authority, after receiving notification in writing under section 18(2) of this Act from the person on whom the notice requiring the execution of works was served that he is not able to do the work in question, serve notice that they propose to do the work and relieve the person served with the notice from liability under this section, no liability shall arise under this section in respect of the notice requiring the execution of works.

(3) Subsection (1) of this section shall be without prejudice to the exercise by the local authority of their powers of carrying out the works under the said section 18.

(4) Section 159 of the principal Act (which confers powers of entry for the purposes mentioned in that section) shall apply to entry for the purpose of ascertaining whether there has been an offence under this section, but so much of the said section 159 as requires notice to be given of the intended entry shall not apply to entry for the purpose mentioned in this subsection.

The provisions of this subsection are without prejudice to section 28(2) of this Act.

(5) For the purposes of this section.—

(a) where no appeal is brought against a notice under section 14, section 15 or section 16 of this Act, the notice is not complied with if the works specified in the notice are not completed within the period so specified, with any extension duly permitted by the local authority, and

(b) where an appeal is brought against any such notice, the notice, in so far as it is confirmed on appeal, is not complied with if the works specified in the notice are not completed within twenty-eight days from the final determination of the appeal, or such longer period as the sheriff in determining the appeal may fix,

and for the purposes of this subsection the withdrawal of an appeal shall be deemed to be the final determination thereof having the like effect as a decision confirming the notice appealed against.

(6) Subsections (4) and (5) of section 23 of this Act shall apply in relation to an offence punishable under this section.

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19 Directions to prevent or reduce over-crowding in houses in multiple occupation.

(1) A local authority may, for the purposes of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or a further notice under section 15 of this Act, fix as a limit for the house what is in their opinion the highest number of individuals who should, having regard to the considerations set out in section 15(1), live in the house in its existing condition, and give a direction applying that limit to the house.

(2) A direction under the foregoing subsection shall have effect so as to make it the duty of the occupier for the time being of the house—

(a) not to permit any individual to take up residence in the house so as to increase the number of individuals living in the house to a number above the limit specified in the direction, and

(b) where the number of individuals living in the house is for the time being above the limit so specified and any individual ceases to reside in the house, not to permit any other individual to take up residence in the house.

In this subsection the reference to the occupier for the time being of the house shall include a reference to any person who is for the time being entitled or authorised to permit individuals to take up residence in the house or in part of the house.

(3) References in the foregoing subsections to a house include references to part of a house, and the local authority shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

(4) Not less than seven days before giving a direction under this section, the local authority shall—

(a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to give the direction, and

(b) post such a notice in some position in the house where it is accessible to those living in the house,

and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to give the direction.

(5) The local authority shall within seven days from the giving of the direction—

(a) serve a copy of the direction on an owner of the house and on every person who is to the knowledge of the local authority a lessee of the house, and

(b) post a copy of the direction in some position in the house where it is accessible to those living in the house.

(6) The power conferred by subsection (1) of this section may be exercised as regards any premises notwithstanding the existence of any previous direction under that subsection laying down a higher maximum.

(7) A local authority may at any time, having regard to any works which have been executed in the house, or any other change of circumstances, and on the application of any person having an estate or interest in the house, revoke any direction given under subsection (1) of this section, or vary it so as to allow more people to be accommodated in the house.

(8) If a local authority refuse an application under the last foregoing subsection, or do not within forty-two days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the sheriff, and on the appeal the sheriff

shall have power to revoke the direction or vary it in any manner in which it might have been varied by the local authority.

(9) The local authority may from time to time serve on the occupier of a house or part of a house in respect of which a direction under this section is in force a notice requiring him to furnish them within seven days with a statement in writing giving all or any of the following particulars, that is to say—

(a) the number of individuals who are, on a date specified in the notice, living in the house or part of the house, as the case may be ;

(b) the number of families or households to which those individuals belong ;

(c) the names, ages and sex of those individuals and the names of the heads of each of those families or households ; and

(d) the rooms used by those individuals and families or households respectively ;

and if the occupier makes default in complying with the requirements or furnishes a statement which to his knowledge is false in any material particular, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(10) If any person knowingly fails to comply with the requirements imposed on him by subsection (2) of this section, he shall be guilty of an offence under this subsection.

(11) A person committing an offence under the last foregoing subsection of this section shall be liable on summary conviction—

(a) where he has not previously been convicted of an offence under that subsection, to a fine not exceeding twenty pounds, and

(b) where he has previously been convicted of an offence under that subsection, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred "pounds, or to both.

(12) The powers conferred by this section shall be exercisable whether or not a notice has been given under section 15 of this Act.

21 Application of ss. 12 to 15 to certain buildings comprising separate dwellings.

(1) Sections 12 to 15 of this Act shall apply—

(a) to a building which is not a house but comprises separate dwellings, two or more of which do not have a sanitary convenience and personal washing facilities accessible only to those living in the dwelling, and

(b) to a building which is not a house but comprises separate dwellings, two or more of which are wholly or partly let in lodgings or occupied by members of more than one family,

(being in either case a building all the dwellings in which are owned by the same person) as if references in those sections to a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family included references to any such building, but no direction shall be given under section 19 of this Act by virtue of this section in relation to such a building.

(2) If a local authority make an order under section 12 of this Act as applied by the foregoing subsection as respects a building at a time when another order under that section is in force as respects one of the dwellings in the building they shall revoke the last-mentioned order.

(3) References to a house in sections 17, 18 and 23 of this Act shall include references to a building to which this section applies.

Status: *This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

22 Registers of houses in multiple occupation.

(1) A local authority may make and submit to the Secretary of State for confirmation by him a scheme authorising the local authority to compile and maintain a register for their area—

(a) of houses which, or a part of which, are let in lodgings, or which are occupied by members of more than one family, and

(b) of buildings which comprise separate dwellings, two or more of which do not have a sanitary convenience and personal washing facilities accessible only to those living in the dwelling,

and the Secretary of State may if he thinks fit confirm the scheme with or without modifications.

(2) A scheme under this section shall not come into force until it has been confirmed and, subject to that, shall come into force on such date as may be fixed by the scheme, or if no date is so fixed, at the expiration of one month after it is confirmed.

(3) A scheme under this section need not be for the whole of the local authority's area and need not be for every description of house or building falling within paragraphs (a) and (b) of subsection (1) of this section, and—

(a) may prescribe the particulars to be inserted in the register, and

(b) may make it the duty of persons prescribed by the scheme to notify the local authority of the fact that the house or building appears to be registrable, and to give the local authority all or any of the prescribed particulars as regards the house or building, and

(c) may make it the duty of persons prescribed by the scheme to notify the local authority of any change which makes it necessary to alter the particulars inserted in the register as regards any house or building.

(4) Without prejudice to the provisions of section 168 of the principal Act (under which a local authority may require information as to the ownership of premises), a local authority may, for the purpose of ascertaining whether a house or building is registrable, and of ascertaining the particulars to be entered in the register as regards the house or building, require any person who has an estate or interest in, or who lives in, the house or building to state in writing any information in his possession which the local authority may reasonably require for that purpose, and any person who, having been required by a local authority in pursuance of this subsection to give to them any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding ten pounds.

(5) A scheme under this section may make a contravention or failure to comply with any provision in the scheme an offence under the scheme, and a person guilty of an offence under the scheme shall be liable on summary conviction to a fine not exceeding ten pounds.

(6) At least one month before a scheme is submitted to the Secretary of State for confirmation by him, notice of intention to submit the scheme shall be given in one or more newspapers circulating in the district of the local authority.

(7) As soon as a scheme under this section is confirmed by the Secretary of State, the local authority shall publish in one or more newspapers circulating in their district a notice stating the fact of such a scheme having been confirmed, and describing any steps which will have to be taken under the scheme by those concerned with registrable houses and buildings (other than steps which have only to be taken after a notice from the local

authority), and naming a place where a copy of the scheme may be seen at all reasonable hours.

(8) A copy of a scheme confirmed by the Secretary of State shall be printed and deposited at the offices of the local authority by whom it was made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum, not exceeding one shilling for every copy, as the local authority may determine.

(9) A scheme under this section may vary or revoke a previous scheme thereunder; and a local authority may at any time with the consent of the Secretary of State revoke a scheme by an order, notice of which shall be published by them in one or more newspapers circulating in their district.

(10) The production of a printed copy of a scheme purporting to be made by a local authority, upon which is indorsed a certificate purporting to be signed by the clerk to the authority stating—

(a) that the scheme was made by the local authority,

(b) that the copy is a true copy of the scheme,

(c) that on a specified date the scheme was confirmed by the Secretary of State,

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate in pursuance of this section.

23 Supplemental provisions.

(1) If on an application made by a person required by a notice under the foregoing provisions of this Part of this Act to execute any works it appears to the sheriff that any other person having an estate or interest in the premises has unreasonably refused to give any consent required to enable the works to be executed, the sheriff may give the necessary consent in place of that other person.

(2) If the superior or owner of any lands and heritages gives notice to the local authority of his estate in those lands and heritages, the authority shall give to him notice of any proceedings taken by them in pursuance of the foregoing provisions of this Part of this Act in relation to those lands and heritages or any part thereof.

(3) Nothing in the foregoing provisions of this Part of this Act shall prejudice or interfere with the rights or remedies of any owner for breach, non-observance or non-performance of any agreement or stipulation entered into by a lessee in reference to any house in respect of which a notice requiring the execution of works is served by a local authority under the foregoing provisions of this Part of this Act, or as respects which regulations made under section 13 of this Act are for the time being in force ; and if any owner is obliged to take possession of a house in order to comply with any such notice, the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance which has occurred before he so took possession.

(4) Where an offence punishable under the foregoing provisions of this Part of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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(5) Where a person is convicted of an offence by virtue of the last foregoing subsection and the body corporate in question is under the foregoing provisions of this Part of this Act liable, as having been previously convicted of an offence, to a higher penalty than if it had not been previously convicted of any offence, that person shall be liable under the foregoing provisions of this Part of this Act to the same penalties as the body corporate, including the imprisonment to which it would be liable if a natural person:

Provided that he shall not be so liable if he shows that at the time of the first-mentioned offence he did not know of the body corporate's conviction for the earlier offence and that at the time of the earlier conviction he was not acting or purporting to act as a director, manager, secretary or other similar officer of the body corporate.

(6) Section 159 of the principal Act (which confers powers of entry for the purposes mentioned in that section) shall apply to entry for the purpose of ascertaining whether there has been a contravention of any regulation or direction made or given under the foregoing provisions of this Part of this Act, but so much of that section as requires notice to be given of the intended entry shall not apply to entry for the purpose mentioned in this subsection.

(7) In the foregoing provisions of this Part of this Act references to a lessee of a house and to a person to whom a house is let include references to—

(a) any person holding the interest of lessee under a sublease of the house ; and

(b) any person who retains possession of the house by virtue of the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 and not as being entitled to any tenancy ;

and references to a person having an estate or interest in the house include references to any such person as is mentioned in paragraph (b) of this subsection.

23A Execution of works under Part II.

Section 161 of the principal Act (penalty for preventing execution of repairs) shall apply as if any reference in that section to Part II of the principal Act included a reference to this Part of this Act.

23B Overcrowded houses and execution of works in overcrowded houses.

(1) If the condition of a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family, is, in the opinion of the local authority, defective in one or more of the ways described in section 15(1) of this Act, having regard to the number of individuals or households, or both, accommodated for the time being on the premises, the notice which the local authority may serve under that subsection may be a notice specifying the works which in the opinion of the local authority are required for rendering the premises reasonably suitable for occupation by a number of individuals or households smaller than the number accommodated for the time being on the premises.

(2) A notice served in pursuance of the foregoing subsection shall specify the number of individuals or households, or both, which in the opinion of the local authority the premises could reasonably accommodate if the works specified in the notice were carried out, and one of the grounds on which an appeal may be brought under section 17 of this Act against such a notice shall be that the number so specified in the notice is unreasonably low.

(3) Where the local authority have in pursuance of the foregoing provisions of this section served a notice specifying the number of individuals or households, or both, which in the opinion of the local authority the premises could reasonably accommodate if the works specified in the notice were carried out, the local authority may adopt that number of individuals (or a number of individuals determined by reference to that number of households) in fixing a limit under section 19(1) of this Act as respects the house.

(4) No notice shall be served under section 15(1) of this Act in pursuance of subsection (1) of this section as respects a building which is not a house but to which the said section 15 is applied by section 21 of this Act.

23C Warrant to authorise entry.

(1) Where it is shown to the satisfaction of a justice of the peace, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, a local authority for the purpose—

(a) of survey and examination to determine whether any powers under this Part of this Act should be exercised in respect of the premises, or

(b) of ascertaining whether there has been a contravention of any regulations or direction made or given under this Part,

the justice, subject to this section, may by warrant under his hand authorise that person to enter on the premises for the purposes mentioned in paragraphs (a) and (b) above, or for such of those purposes as may be specified in the warrant.

(2) A justice of the peace shall not grant a warrant under this section unless he is satisfied—

(a) that admission to the premises has been refused and, except where the purpose specified in the information is the survey and examination of premises to determine whether there has been a failure to comply with a notice under section 14, section 15 or section 16 of this Act, or is to ascertain whether there has been a contravention of any regulations or direction made or given under Part II of this Act, that admission was sought after not less than twenty-four hours' notice of the intended entry had been given to the occupier, or

(b) that an application for admission to the premises would defeat the object of the entry.

(3) Every warrant granted under this section shall continue in force until the purpose for which the entry is required has been satisfied.

(4) Any person who, in the exercise of a right of entry under this section, enters any premises which are unoccupied, or premises of which the occupier is temporarily absent, shall leave the premises as effectually secured against trespassers as he found them.

(5) Any power of entry conferred by this section—

(a) shall include power to enter, if need be, by force, and

(b) may be exercised by the person on whom it is conferred either alone or together with any other persons.

(6) In this section any reference to a justice of the peace shall include a reference to the sheriff and to a magistrate.

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23D Management code to be available for dwellings in certain tenements.

(1) If on 13th November 1963 all or any of the dwellings in a tenement are without one or more of the standard amenities, sections 12 to 14 of this Act shall, after the coming into force of this section, apply to the tenement as if references in those sections to a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family included references to the tenement.

(2) If a local authority make an order under the said section 12 as applied by the foregoing subsection as respects a tenement at a time when another order under that section is in force as respects one of the dwellings in the tenement, they shall revoke the last-mentioned order.

(3) References to a house in sections 18 and 23 of this Act shall include references to a tenement to which this section applies.

(4) Expressions in this section to which meanings are given by Part II of the Housing Act 1964 shall have the same meaning in this section.

(5) In this section any references to a tenement are references to a tenement, all the dwellings in which are owned by the same person.

23E Applications and appeals to the sheriff.

(1) Any application to the sheriff under this Part of this Act shall be conducted and disposed of in like manner as proceedings brought under the Small Debt (Scotland) Acts 1837 to 1889, and the determination of the sheriff on any such application shall be final and conclusive.

(2) The provisions of section 166 of the principal Act (other than subsection (3) of that section) shall apply to any appeal to the sheriff under this Part of this Act as they apply to appeals to the sheriff under that Act.

Miscellaneous

28 Interpretation and construction of Part II.

(1) In this Part of this Act—

(a) ' the principal Act' means the Housing (Scotland) Act 1950,

(b) ' heritable security' has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by *ex facie* absolute disposition or assignation.

(2) This Part of this Act shall be construed as one with the principal Act."”