



# Housing Rents and Subsidies (Scotland) Act 1975

## 1975 CHAPTER 28

An Act to repeal certain provisions of the Housing (Financial Provisions) (Scotland) Act 1972; to make further provision as to the rents of houses provided by housing authorities in Scotland and of those subject to the Rent (Scotland) Acts 1971 to 1974; to provide for agreements for the exercise by housing co-operatives of local authority housing functions; to render certain housing associations in Scotland, whose rules restrict membership to tenants or prospective tenants and preclude the grant or assignation of tenancies to persons other than members, eligible for housing association grant and revenue deficit grant under the Housing Act 1974; to amend the law relating to housing subsidies and accounts in Scotland; and to make minor amendments to certain enactments relating to housing and new towns there. [8th May 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Public sector housing*

#### **1 New system of rents for public sector housing**

- (1) Sections 27 to 31 of the Housing (Financial Provisions) (Scotland) Act 1972 (determination of rents, etc. for public sector housing) shall cease to have effect.
- (2) Subject to the provisions of this section, a local authority may charge such reasonable rents as they may determine for the tenancy or occupation of houses provided by them.
- (3) A local authority shall from time to time review such rents and make such changes either of rents generally or of particular rents as circumstances may require.

- (4) In determining standard rents for houses to which their housing revenue account relates, a local authority shall, subject to section 33 of the 1972 Act (phasing out of supplementary charges), take no account of the personal circumstances of tenants.
- (5) A local authority may make provision for a working balance in their housing revenue account which is no larger than is reasonably necessary having regard to all the circumstances, but save as aforesaid they shall not make provision for a surplus in that account.
- (6) Schedule 4 (housing revenue account) to the 1972 Act shall be amended in accordance with Part I of Schedule 1 to this Act, but subject to the Note at the end of that Part.

## **2 Limitation on increases in standard rents of individual houses**

- (1) Subject to subsection (2) below, a local authority shall not increase the income receivable from the standard rent of any house by more than £39 in any period of 12 months.
- (2) The restriction on any increase imposed by subsection (1) above shall not apply in respect of the standard rent which is first determined where a lease is granted to a new tenant of the house or where an improvement has been made in the house.
- (3) In subsection (2) above, "improvement" includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair.
- (4) The Secretary of State may, with the concurrence of the Treasury, by order vary the amount specified in subsection (1) above; and any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under this subsection.
- (5) This section shall apply to a development corporation or the Scottish Special Housing Association as it applies to a local authority.

## **3 Amendments relating to housing subsidies**

The enactments relating to housing subsidies specified in Part II of Schedule 1 to this Act shall be amended in accordance with that Part, but subject to the Note at the end of that Part.

## **4 Transitional provisions relating to housing revenue account**

- (1) The obligation under paragraph 1(5) of Schedule 4 to the 1972 Act to repay to the general rate fund the amount carried to the credit of the housing revenue account which is equal to the amount of the deficit shown in the account for any year, shall not apply in respect of such a deficit for the year 1974-75.
- (2) Paragraph 11 of the said Schedule 4, as originally enacted, shall not apply in relation to any surplus shown in the housing revenue account at the end of the year 1974-75, and any such surplus shall be credited to the general rate fund for that year.

## **5 Agreements for exercise by housing co-operatives of local authority housing functions**

- (1) A local authority may make an agreement with a society, company or body of trustees for the time being approved by the Secretary of State for the purposes of this section (in this section called a "housing co-operative")—
  - (a) for the exercise by the co-operative, on such terms as may be provided in the agreement, of any of the local authority's powers relating to land or any interest in land held by them for the purposes of Part VII of the Housing (Scotland) Act 1966, and the performance by the co-operative of any of the local authority's duties relating to such land or interest; or
  - (b) for the exercise by the co-operative, in connection with any such land or interest, of any of the local authority's powers under section 140 or 141 of the said Act of 1966 (powers to provide furniture, board and laundry facilities).
- (2) An agreement to which this section applies may only be made with the approval of the Secretary of State, and the terms of any such agreement shall be approved by him.
- (3) The Secretary of State's approval to the making and to the terms of such an agreement may be given either generally or to any local authority or description of local authority or in any particular case, and may be given unconditionally or subject to any conditions.
- (4) Without prejudice to any power to let land conferred on a local authority by any enactment, the terms of an agreement to which this section applies may include terms providing for the letting of land to the housing co-operative by the local authority for a period not exceeding 20 years.
- (5) Houses on land included in an agreement to which this section applies shall continue to be included in the local authority's housing revenue account; and neither the fact that the authority have made the agreement nor any letting of land in pursuance of it shall be treated as a ground for the reduction, suspension or discontinuance of any Exchequer contribution or subsidy under section 58 of the Housing (Financial Provisions) (Scotland) Act 1968.
- (6) A housing association which is registered under Part II of the Housing Act 1974 shall not be entitled to a grant under Part III of that Act in respect of land for the time being comprised in an agreement to which this section applies.

## **6 Surplus funds of new town corporations**

After section 38A of the New Towns (Scotland) Act 1968 (as inserted by section 4(2) of the Statutory Corporations (Financial Provisions) Act 1974) there shall be inserted the following section:—

### **“38B Disposal of surplus funds of development corporations.**

- (1) Where it appears to the Secretary of State, after consultation with the Treasury and the development corporation, that a development corporation have a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for their future requirements, the development corporation shall, if the Secretary of State after such consultation as aforesaid so directs, pay to the Secretary of State such sum not exceeding the amount of that surplus as may be specified in the direction; and any

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sum received by the Secretary of State under this section shall, subject to subsection (3) of this section, be paid into the Consolidated Fund.

- (2) The whole or part of any payment made to the Secretary of State by a development corporation under subsection (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 advances under section 37(1) of this Act, and as made in respect of the repayments due at such times, as may be so determined.
- (3) Any sum treated under subsection (2) above as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.”

*Private sector housing*

**7 Phasing of rent increases where rent for dwelling-house under regulated tenancy is registered**

- (1) Subject to the following provisions of this section, and to section 9 of this Act, where a rent for a dwelling-house under a regulated tenancy is registered (whether before or after the commencement of this Act), the rent for any rental period (whether contractual or statutory), beginning after the commencement of this Act and during the period of delay imposed in terms of Schedule 2 to this Act, may only be increased to the extent permitted in terms of that Schedule ; and accordingly—
  - (a) any notice of increase under section 21 (2) (b) of the 1971 Act; or
  - (b) any tenancy agreement, or any rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, served or made before or after such commencement, which purports to increase the rent payable at any time during that period above that permitted at that time in terms of that Schedule, shall have effect to increase the rent to the extent so permitted but no further.
- (2) This section shall not apply to the rent under any regulated tenancy of a dwelling-house which was granted after the commencement of this Act and after the date of registration of the rent if the person to whom it was granted was neither the tenant under any previous regulated tenancy of that dwelling-house nor any person who might have succeeded such a tenant as a statutory tenant of the dwelling-house.
- (3) This section shall not apply to any rent (whether registered before or after the commencement of this Act) which is subject to phasing under section 63 of the 1972 Act as applied by paragraph 14(2)(c) of Schedule 3 to the Housing Act 1974 (certain housing association, etc., tenancies).
- (4) The following provisions shall cease to have effect—
  - (a) section 79 of the 1971 Act and Schedule 13 thereto;
  - (b) section 37 of the 1972 Act and Schedule 6 thereto.
- (5) Nothing in this section or in Schedule 2 to this Act shall prevent or limit an increase in any sums included in a rent which are variable by virtue of section 43(4) of the 1971 Act (variable rents).
- (6) Schedule 2 to this Act shall have effect; and, unless the context otherwise requires, any expression used in this section or in Schedule 2 to this Act which is also used in Part III or IV of the 1971 Act shall have the same meaning as in those Parts.

## **8 Limitation of rent increases under rent agreement where no rent is registered for dwelling-house under regulated tenancy**

- (1) Without prejudice to section 9 of this Act, where no rent is registered for a dwelling-house under a regulated tenancy (whether granted before or after the commencement of this Act), the rent payable in any contractual period beginning after such commencement may not be increased, by virtue of any rent agreement (whether made before or after such commencement), above the appropriate maximum amount specified in this section.
- (2) In the case of any rent agreement which took effect before the commencement of this Act, the maximum amount to which the rent may be increased in terms of subsection (1) above is, for a rental period which begins—
  - (a) during the year beginning with the commencement of this Act, or
  - (b) during a subsequent year beginning with an anniversary of such commencement,the amount which, for the last rental period beginning before the relevant year referred to in head (a) or (b) above, was payable by way of rent, having regard to the provisions of any enactment, plus £1.50 per week.
- (3) In the case of any rent agreement which takes effect on or after the commencement of this Act, the maximum amount to which the rent may be increased in terms of subsection (1) above is, for a rental period which begins—
  - (a) during the first year of the period beginning with the date when the rent agreement takes effect, or
  - (b) during a subsequent year beginning with an anniversary of that date,the amount which, for the last rental period beginning before the relevant year referred to in head (a) or (b) above, was payable by way of rent, having regard to the provisions of any enactment, plus £1.50 per week.
- (4) There shall be disregarded for the purposes of this section such part of any increase of rent (in a case where any rates in respect of the dwelling-house are borne by the landlord) as corresponds to any increase in the rates so borne, ascertained in accordance with Schedule 4 to the 1971 Act.
- (5) Any rent agreement made before or after the commencement of this Act which purports to increase the rent payable thereunder at any time above that permitted at that time under this section shall have effect to increase the rent to the extent so permitted but no further.
- (6) Paragraph 9 of Schedule 2 to this Act shall apply for the purposes of this section as it applies for the purposes of that Schedule.
- (7) The Secretary of State may by order substitute, for the sum of £1.50 mentioned in subsections (2) and (3) above, a sum other than that sum.
- (8) An order under subsection (7) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that subsection.
- (9) In this section, "rent agreement" means a rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, and, unless the context otherwise requires, any expression used in this section which is also used in Part III or IV of the 1971 Act shall have the same meaning as in those Parts.

## **9 Annual limit on private sector rent increases**

- (1) Notwithstanding any registration of a rent, or any rent agreement, which (in either case) permits the rent of a dwelling-house to be increased above the existing amount payable under a registration or rent agreement, the total of the rent payable under a regulated tenancy in a relevant period shall not, by virtue of a notice of increase or rent agreement taking effect at or after the commencement of this Act, be increased by more than £78 above the rent which would be payable in a period of twelve months at the rate at which it was payable for the last rental period beginning before the relevant period ; and sections 7 and 8 of this Act shall have effect accordingly in relation to the rent payable for any rental period beginning at or after such commencement.
- (2) In this section, " relevant period " means—
  - (a) in a case where the rent previously payable as aforesaid was in respect of a rent registered before the commencement of this Act, the period of 12 months beginning with such commencement, or any subsequent period of 12 months beginning with the anniversary of such commencement;
  - (b) in a case where the rent previously payable as aforesaid was in respect of a rent registered after such commencement, the period of 12 months beginning with the date of such registration, or any subsequent period of 12 months beginning with the anniversary of that date ;
  - (c) in a case where the rent previously payable as aforesaid was payable under a rent agreement in force before or after the commencement of this Act, the period of 12 months beginning with the date when the last increase (before or after such commencement) took effect under that agreement, or any subsequent period of 12 months beginning with the anniversary of that date.
- (3) This section shall not affect any increase in respect of a service element within the meaning of Schedule 2 to this Act.
- (4) The Secretary of State may by order substitute, for the sum of £78 mentioned in subsection (1) above, a sum other than that sum.
- (5) An order under subsection (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that subsection.
- (6) Any notice of increase under section 21(2)(b) of the 1971 Act or any rent agreement which purports to increase the rent payable at any time above that permitted at that time in terms of this section shall have effect to increase the rent to the extent so permitted but no further.
- (7) The provisions of section 7(2), (3) and (5) and section 8(4) and (9) of this Act and of paragraphs 9 and 10 of Schedule 2 thereto shall apply for the purposes of this section as they apply for the purposes of those sections.

## **10 Termination of decontrol of controlled tenancy by reference to rateable value etc.**

- (1) No controlled tenancy of a dwelling-house shall cease to be a controlled tenancy by reference to—
  - (a) the rateable value of the dwelling-house in terms of section 34 of the 1972 Act;
  - (b) the occurrence of any event which, in terms of section 35(2) of that Act, would, but for the enactment of this section, have made the said section 34 applicable to the dwelling-house,

whether or not an application for the registration of a rent has, before the commencement of this Act, been made by virtue of section 38 of the 1972 Act at a time when the dwelling-house was let on or subject to a controlled tenancy; and accordingly, sections 34, 35 and 38 of the 1972 Act shall cease to have effect.

- (2) Where an application for the registration of a rent has, before the commencement of this Act, been made by virtue of section 38 of the 1972 Act at a time when the dwelling-house was let on or subject to a controlled tenancy which would, but for the enactment of subsection (1) above, have ceased to be a controlled tenancy under section 34 of that Act—
  - (a) no rent shall, after such commencement, be registered in pursuance of such an application ; and
  - (b) any rent which has, before such commencement, been registered in pursuance of such an application shall be deemed to have been deleted from the register, and shall be of no effect.
- (3) In this section—
  - (a) " registration " means registration under Part IV of the 1971 Act and " registered " and " register " shall be construed accordingly; and
  - (b) other expressions have the same meanings as in the 1971 Act.

## **11 Increases of rent under controlled tenancy permitted towards cost of repairs**

- (1) Subject to the following provisions of this section, where repairs have been carried out to a dwelling-house let on or subject to a controlled tenancy, or where repairs have been carried out to any premises, whether or not they include the dwelling-house, which benefit the dwelling-house, the rent limit under the controlled tenancy of the dwelling-house, for rental periods occurring after the completion of the repairs, shall be increased by 12J per cent, per annum of the amount expended on the repairs by the landlord or any superior landlord or any person from whom the landlord or the superior landlord derives title, but the rent of such a dwelling-house may only be increased by virtue of this subsection by the service of a notice of increase under section 58 of the 1971 Act.
- (2) To the extent to which benefit from the carrying out of repairs to the dwelling-house or premises mentioned in subsection (1) above accrues to premises other than the dwelling-house, the reference in the said subsection (1) to the amount expended on the repairs shall be construed as a reference to only so much of that amount (if any) as may be determined, by agreement in writing between the landlord and the tenant, or by the sheriff, to be properly apportionable to the dwelling-house, having regard to any benefit accruing to the dwelling-house and to the other premises from the carrying out of the repairs.
- (3) Where a grant has been paid, or is payable, towards the cost of the repairs under any of the relevant enactments, the references in subsections (1) and (2) above to the amount expended on the repairs shall be construed as references to that amount as diminished by the amount of the grant.
- (4) The sheriff may order the cancellation or reduction of any increase sought or paid by virtue of subsection (1) above on the ground—
  - (a) that the repairs in question were unnecessary; or
  - (b) that a greater amount was expended upon them than was reasonable,

but no such order shall be made on the ground that the repairs were unnecessary in any case where the repairs were carried out in pursuance of a notice under section 24 of the Housing (Scotland) Act 1969 or where a grant has been paid, or is payable, towards the cost of the repairs under any of the relevant enactments.

- (5) Sections 122(1) and 123(1) of the 1971 Act shall apply in relation to any application to the sheriff for the purpose of subsection (2) or (4) above as if this section were a section of that Act referred to in section 123(3) thereof; and any determination or order under subsection (2) or (4) above may be made so as to relate to any rental period, whether before or after the date of such determination or order.
- (6) In this section—  
     " relevant enactments " means—  
     (a) Part II of the Housing (Financial Provisions) (Scotland) Act 1968; and  
     (b) Part I of the Housing (Scotland) Act 1974;  
     and any other expression which is also used in Part V of the 1971 Act shall have the same meaning as in that Part.
- (7) This section does not apply to—  
     (a) any repairs completed before the commencement of this Act; or  
     (b) any repairs which, as between the tenant and the landlord, the tenant is under an express liability to carry out.

## **12 Eligibility for housing association grant and revenue deficit grant**

The fact that a housing association is a society registered under the Industrial and Provident Societies Act 1965 and that its rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the grant or assignation of tenancies to persons other than members shall not render it ineligible for housing association grant under section 29 of the Housing Act 1974 or for revenue deficit grant under section 32 of that Act.

## **13 Continuation of right to recover excess rent, etc., under Counter-Inflation Orders**

- (1) Article 5 of the Counter-Inflation (Residential Rents—Private Sector) (Scotland) Order 1974 (recovery of excess rent) shall continue to have effect, for the purposes of that Order and of the Counter-Inflation (Residential Rents—Private Sector) (Scotland) No. 2 Order 1974, so as to enable a tenant to recover rent at any time when he is able to recover it in terms of that Article, whether or not Part II of the Counter-Inflation Act 1973 (under which the Orders were made) is in force.
- (2) Article 8 of the Order first mentioned (jurisdiction of sheriff) shall continue to have effect, for the purpose of both of the said Orders, in respect of any proceedings commenced before the expiry of a period of two years commencing on 16th May 1975, whether or not Part II of the said Act of 1973 is in force.
- (3) Section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply in relation to the said Orders, as continued in effect by virtue of this section, as it applies in relation to an enactment which is repealed by another Act.



### *Miscellaneous and general*

#### **14 Financial provisions**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenses of the Secretary of State under this Act, and
  - (b) any increase in the sums payable out of money so provided under any Act other than this Act which is attributable to any provision of this Act.
- (2) There shall be paid into the Consolidated Fund and into the National Loans Fund any sums payable into those Funds under any Act other than this Act by virtue of any provision of this Act.

#### **15 Miscellaneous and consequential amendments and repeals**

- (1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments set out in that Schedule, being miscellaneous amendments and amendments consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to the Note at the end of that Schedule.

#### **16 Interpretation**

- (1) In this Act, unless the context otherwise requires—
  - " the 1971 Act " means the Rent (Scotland) Act 1971;
  - " the 1972 Act " means the Housing (Financial Provisions) (Scotland) Act 1972;
  - " local authority " has the meaning assigned to it by section 1 of the Housing (Scotland) Act 1966 ;
- (2) Section 78 of the 1972 Act (interpretation) shall apply in relation to sections 1 to 5 of this Act as it applies in relation to the 1972 Act.
- (3) Except where the context otherwise requires, any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment, including this Act.

#### **17 Citation, commencement and extent**

- (1) This Act may be cited as the Housing Rents and Subsidies (Scotland) Act 1975.
- (2) The Housing (Scotland) Acts 1966 to 1974 and this Act (except sections 6 to 13) may be cited together as the Housing (Scotland) Acts 1966 to 1975.
- (3) The Rent (Scotland) Acts 1971 to 1974 and sections 7 to 11 of this Act may be cited together as the Rent (Scotland) Acts 1971 to 1975.
- (4) This Act shall come into force on 16th May 1975.
- (5) With the exception of this section, and section 15 of this Act so far as relating to paragraph 17 of Schedule 3 to this Act (which extend also to England and Wales), this Act extends to Scotland only.

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## SCHEDULES

### SCHEDULE 1

Sections 1 and 3.

#### MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS RELATING TO HOUSING REVENUE ACCOUNT AND HOUSING SUBSIDIES

#### PART I

##### AMENDMENTS RELATING TO HOUSING REVENUE ACCOUNT

##### *The Housing (Financial Provisions) (Scotland) Act 1972*

1 In Schedule 4 (Housing Revenue Account)—

(1) In paragraph 1, the following provisions shall cease to have effect:

- (a) in sub-paragraph (1), head (d);
- (b) sub-paragraphs (5) and (6).

(2) In paragraph 2, head (f) shall cease to have effect.

(3) Paragraphs 5 and 6 shall cease to have effect.

(4) For paragraph 11 there shall be substituted the following paragraph—

“11 (1) If at the end of any year a credit balance is shown in the housing revenue account, it shall be carried forward and credited to the account for the next following year.

(2) If for any year a deficit is shown in the said account, the local authority shall carry to the credit of the account a rate fund contribution of an amount equal to the deficit.”

#### NOTE

The amendments contained in this Part of this Schedule shall have effect only as respects the year 1975-76 and later years.

#### PART II

##### AMENDMENTS RELATING TO HOUSING SUBSIDIES

##### *The Housing (Financial Provisions) (Scotland) Act 1972*

2 In section 3 (local authorities housing expenditure subsidy)—

(1) In subsection (1), in paragraph (a), the word " and ", and paragraph (b) shall cease to have effect.

- (2) In subsection (2), the words after " expenditure per house " shall cease to have effect.
- (3) In subsection (3), for the words " 1972-73 " there shall be substituted the words " 1975-76 ", and for the word " excess" there shall be substituted the word " increase ".
- (4) In subsection (4), the following provisions shall cease to have effect—
- (a) in paragraph (a), the word " and " ;
  - (b) paragraph (b) ;
  - (c) the words " and the associated contribution out of the general rate fund " ;
  - (d) column 3 of the Table.
- (5) Subsections (6), (9)(c) and (d) and (11) shall cease to have effect.
- 3 In section 4 (local authorities high cost subsidy)—
- (1) In subsection (1), in paragraph (a), the word " and ", and paragraph (b) shall cease to have effect.
- (2) In subsection (2), the words " or associated contribution out of the general rate fund " shall cease to have effect.
- (3) In subsection (4), in paragraph (a), the word " and ", and paragraph (b) shall cease to have effect.
- (4) In subsection (5), the words " under section 28 or 29 of this Act" shall cease to have effect.
- 4 In section 9 (housing expenditure subsidy payable to development corporations and Scottish Special Housing Association)—
- (1) In subsection (2), the words after " expenditure per house " shall cease to have effect.
- (2) In subsection (3), for the words " 1972-73 " there shall be substituted the words " 1975-76 ", for the word " excess " there shall be substituted the word " increase ".
- (3) Subsection (7) shall cease to have effect.
- (4) In subsection (8), for the word " (7)" there shall be substituted the word " (6) ".

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- 5 In section 46 (rent income subsidy), for subsection (3) there shall be substituted the following subsections—
- “(2A) Rent income subsidy payable by reference to any year in terms of subsection (2) above may continue to be so payable for such years, beginning with that year, as the Secretary of State may, in accordance with such regulations as aforesaid, from time to time determine.
- (3) The amount of rent income subsidy for any year, determined in accordance with regulations made under this section, may be varied from year to year ; and any question relating to the said subsidy shall be determined by the Secretary of State.”.

NOTE

The amendments contained in this Part of this Schedule shall have effect only as respects the year 1975-76 and later years.

## SCHEDULE 2

Section 7.

### PHASING OF RENT INCREASES WHERE RENT FOR DWELLING-HOUSE UNDER REGULATED TENANCY IS REGISTERED

#### PART I

##### PHASING OF RENT INCREASES

##### *Interpretation*

1 (1) In this Schedule—

" noted amount " means the amount of the registered rent noted as fairly attributable to the provision of services under subsection (1A) of section 43 of the 1971 Act, as substituted in terms of paragraph 14 of this Schedule ;

" period of delay " means, subject to paragraphs 3(4) and 4 to 7 below, a period of two years beginning with the date of registration of a rent;

" permitted increase " means the amount by which the rent for any rental period may be increased under paragraph 3 below ;

" previous rent limit " means, subject to sub-paragraph (2) of this paragraph and to paragraphs 4, 6 and 7 below, the amount which for the last rental period beginning before the date of registration was payable by way of rent, having regard to the provisions of any enactment;

" rental period " means a rental period beginning during the period of delay and after the commencement of this Act;

" service element " means any amount calculated under paragraph 2(1) below;

" specified sum " means £0.40 per week for a rental period which begins during the first year of the period of delay, with the addition of a further £0.40 per week for a rental period which begins during the second year.

(2) Where the rent includes an amount payable in respect of rates, the previous rent limit shall be decreased by the amount so payable, ascertained in accordance with Schedule 4 to the 1971 Act.

##### *Service element*

2 (1) Where there is, in respect of any registered rent, a noted amount, in the cases mentioned in the first column of the Table below, the amount of the service element shall be calculated as specified in the second column.

TABLE

<i>Case</i>	<i>Service element</i>
Case A. A specified amount or proportion was in the previous rent limit attributable to the provision of services and came to less than the noted amount.	The service element is the difference between the amount or proportion and the noted amount.
Case B. No amount or proportion attributable to the provision of services was specified in the previous rent limit, but an amount less than the noted amount appears to the rent officer or rent assessment committee to have been attributable to such provision.	The service element is the difference between— (a) an amount bearing to the previous rent limit the same proportion as the noted amount bears to the registered rent, and (b) the noted amount.
Case C. No amount appears to the rent officer or rent assessment committee to have been attributable in the previous rent limit to the provision of services.	The service element is the noted amount.

- (2) The amount of any service element shall be recorded and identified as such in the register.

*Formulae for calculating increases in rent*

- 3 (1) Subject to paragraph 3(1)(c) of Part III of the Schedule to the Fire Precautions Act 1971 and sub-paragraphs (4) and (5) of this paragraph, the permitted increase is an increase to an amount calculated in accordance with the formulae set out in sub-paragraph (2) or (3) below, and for the purposes of this paragraph—
- PRL is the previous rent limit;  
SE is the service element;  
RR is the registered rent;  
SS(1) is the specified sum in respect of a rental period which begins during the first year of the period of delay;  
SS(2) is the specified sum for a rental period which begins during the second year of that period.
- (2) The permitted increase for a rental period which begins during the first year of the period of delay is an increase to the greater of the following amounts, namely—
- (a)  **$PRL + SE + \frac{1}{3} [RR - (PRL + SE)]$**   
(b)  **$PRL + SE + SS(1)$**
- (3) The permitted increase for a rental period which begins during the second year of the period of delay is an increase to the greater of the following amounts namely—
- (a)  **$PRL + SE + \frac{2}{3} [RR - (PRL + SE)]$**   
(b)  **$PRL + SE + SS(2)$**
- (4) Where the permitted increase for any rental period in terms of sub-paragraph (2) or (3) above, other than any increase permitted in respect of a service element, would exceed £1.50 per week, the period of delay shall be extended, and

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- (a) the permitted increase for a rental period which begins during the first year of the period of delay is an increase to the following amount—

**PRL + SE + £1.50 per week**

and

- (b) the permitted increase for a rental period which begins during a subsequent year of the period of delay is an increase to the amount which, for the last rental period beginning before that year, was payable by way of rent, having regard to the provisions of any enactment, plus

- (i) any increase permitted in respect of a service element not previously recovered ; and  
(ii) £1.50 per week.

- (5) Nothing in this Schedule shall enable a rent to be increased to an amount greater than the registered rent.

*Modifications in certain cases of rent agreements*

- 4 (1) Sub-paragraph (2) below applies in any case where there is, in respect of a dwelling-house, a rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, which takes effect—

- (a) on or after the commencement of this Act; and  
(b) less than two years before the date of a subsequent registration of a rent for the dwelling-house.

- (2) In the application of this Schedule in any case mentioned in sub-paragraph (1) above—

- (a) " previous rent limit" means, subject to paragraph 1(2) above, the amount which for the last rental period beginning before the date when the rent agreement took effect was payable by way of rent, having regard to the provisions of any enactment;  
(b) the period of delay shall begin with the date when the rent agreement took effect.

- (3) Nothing in this paragraph shall affect the amount of the rent recoverable for any rental period beginning before the date of the registration of a rent in terms of sub-paragraph (1) above.

*Effect of subsequent registration during period of delay*

- 5 Where a rent has been registered for a dwelling-house, and a new rent is registered for the dwelling-house during a period of delay imposed in respect of the former rent in terms of this Schedule, the restrictions imposed with respect to that period of delay shall, from the date of registration of the new rent, cease to apply, and a new period of delay imposed in terms of this Schedule shall begin with the registration of the new rent or, where paragraph 4 above applies, with the date when the rent agreement took effect.

*Modifications in cases where rent was registered before commencement of Act*

- 6 (1) In relation to any registered rent which was subject to phasing under the provisions of section 79 of the 1971 Act and Schedule 13 thereto, or of section 37 of the 1972

Act and Schedule 6 thereto, sub-paragraph (2) or (3) of this paragraph shall apply in place of the said provisions.

- (2) Where a rent was registered before 8th March 1974 and part of a period of delay imposed in respect thereof under any of the provisions specified in sub-paragraph (1) above remained unexpired on that date—
- (a) in any case where 8th March 1974 fell within the second year of the said period of delay, this Schedule shall apply to the rent as if the second year of a period of delay imposed under this Schedule had ended at the commencement of this Act and as if the period of delay last mentioned had been extended under paragraph 3(4) above ;
  - (b) in any case where 8th March 1974 fell within the first year of the period of delay first mentioned, this Schedule shall apply as if the second year of a period of delay imposed under this Schedule had begun at the commencement of this Act.
- (3) In any case where a rent, which was subject to phasing under any of the provisions specified in sub-paragraph (1) above, was registered on or after 8th March 1974 but before the commencement of this Act, this Schedule shall apply to the rent as if—
- (i) a period of delay in terms of this Schedule had begun at such commencement, and
  - (ii) the previous rent limit were the amount which, for the last rental period beginning before such commencement, was payable, by way of rent, having regard to the provisions of any enactment.
- 7 Sub-paragraph (3) of paragraph 6 above shall apply in any case where—
- (a) a rent was registered before the commencement of this Act, which was not subject to phasing under any of the provisions referred to in that sub-paragraph, and
  - (b) the previous rent limit in terms of that sub-paragraph is less than the registered rent,
- as it applies in any such case as is mentioned in the said sub-paragraph (3).

#### *General*

- 8 (1) The Secretary of State may by order substitute, for the specified sum, or for the sum of £1.50 mentioned in paragraph 3(4) above, in relation to any year of the period of delay, or to the whole period, a sum other than the sum mentioned in this Schedule ; and different sums may be specified for each of those cases or any of them.
- (2) An order under sub-paragraph (1) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that sub-paragraph.
- 9 In ascertaining for the purposes of this Schedule any difference between periods of different lengths, a month shall be treated as one-twelfth and a week as one-fifty-second of a year.
- 10 (1) Where a registration takes effect from a date earlier than the date of registration, references in this Schedule to the date of registration shall nonetheless be references to the later date.
- (2) Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by a rent officer, the preceding provisions of this Schedule

shall have effect as if only the rent determined by the rent assessment committee had been registered ; but the date of registration shall be deemed for the purposes of this Schedule (but not for the purposes of section 21(3) of the 1971 Act) to be the date on which the rent determined by the rent officer was registered.

## PART II

### MISCELLANEOUS AMENDMENTS RELATING TO PHASING OF RENT INCREASES

- 11 In section 19(2) of the 1971 Act (determination of rent during contractual periods), as amended in terms of paragraph 3(4) of Part III to the Schedule to the Fire Precautions Act 1971, after the words " Fire Precautions Act 1971 " there shall be inserted the words " and section 7 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 12 In section 21(2)(b) of the 1971 Act (limit of rent during statutory periods), as amended in terms of paragraph 23 of Schedule 9 to the 1972 Act, for the words from " section 79 " to " 1972 " there shall be substituted the words " section 7 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 13 In section 31 of the 1971 Act (recovery from landlord of sums paid in excess of recoverable rent, etc.), after the words " this Part of this Act", in subsections (1) and (4) of that section, there shall be inserted in each case the words " or sections 7, 8 and 9 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 14 In section 43 of the 1971 Act (amount to be registered as rent), as amended by section 40 of the 1972 Act (certain amounts to be separately noted in register), for subsections (1A) and (1B) there shall be substituted the following subsections—
- “(1A) Subject to subsection (1B) below, there shall be noted separately on the register the amount, if any, of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to each of the following—
- (a) the use of furniture ;
- (b) the provision of services ;
- (c) the use of part of the premises comprised in a dwelling house as a shop or office or for business, trade or professional purposes.
- (1B) There shall not be noted on the register under subsection (1A) above any amount which in the opinion of the rent officer or rent assessment committee is less than 5 per cent, of the registered rent.”.
- 15 In section 43(3)(a) of the 1971 Act (treatment of rates borne by landlord), after the words "of this Act" there shall be inserted the words " or section 7 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 16 In Schedule 6 to the 1971 Act (applications for registration of rents), in paragraph 15, as added in terms of paragraph 28 of Schedule 9 to the 1972 Act, at the end there shall be added the words " and any amount to be recorded in the register in pursuance of paragraph 2(2) of Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 17 In Part III of the Schedule to the Fire Precautions Act 1971, in paragraph 3(1)(c), as added in terms of paragraph 31(3) of Schedule 9 to the 1972 Act, for the words



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- from " Schedule 13 " to " 1972 " there shall be substituted the words " Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 18 In section 42(3) of the 1972 Act (requirements as respects rent agreements), after paragraph (b) there shall be added the following paragraph—  
“(bb) the agreement contains a statement that, if a rent is registered under Part IV of the Act of 1971 in respect of the dwelling-house, any increase in the rent may be phased under section 7 of the Housing Rents and Subsidies (Scotland) Act 1975;”
- 19 In section 45 of the 1972 Act (failure to comply with provisions of rent agreements), in subsections (1) and (2), for the words " 43 or 44" there shall (in each case) be substituted the words " or 43 "
- 20 In Schedule 3 to the 1972 Act (rent rebates and allowances), in paragraph 15(1)(b) for the words from "Schedule 13 " to the end of head (b) there shall be substituted the words " Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975. "

### SCHEDULE 3

Section 15.

#### MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS

##### *The Housing (Scotland) Act 1966*

- 1 Section 195 (default powers of Secretary of State in relation to rents) shall cease to have effect.

##### *The Housing (Financial Provisions) (Scotland) Act 1968*

- 2 In section 58 (power of Secretary of State to reduce, suspend or discontinue housing subsidies), at the end of paragraph (aa) of subsection (3), as inserted by section 73 of the Housing (Financial Provisions) (Scotland) Act 1972, there shall be added the words " or under the Housing Rents and Subsidies (Scotland) Act 1975 ".

##### *The Housing (Scotland) Act 1969*

- 3 In section 62 (increase of rents of houses belonging to certain authorities without notice of removal)—
- (1) For existing subsections (1) and (2) there shall be substituted the following subsections—
- “(1) Subject to subsections (2) and (3) of this section, where a house belonging to an authority to which this section applies is let for any period, it shall be an implied term of the tenancy that the rent payable to the authority under the tenancy may, without the tenancy being terminated, be increased with effect from any day of the tenancy by a written notice of increase given by the authority to the tenant not less than four weeks before that day.
- (2) Where an authority to which this section applies gives under subsection (1) of this section a notice of increase which is to be operative as from any day and the tenancy continues beyond that day, it shall be an implied term of the

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

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tenancy that the notice shall nevertheless not have effect if the tenancy is terminated by a notice of removal given by the tenant, and—

- (a) the notice of removal is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase; and
  - (b) the date on which the tenancy is made to terminate is not later than 4 weeks after the date on which the notice of removal is given; and the tenant shall be entitled to give a notice of removal in conformity with paragraphs (a) and (b) above notwithstanding the provisions express or implied of the tenancy.”.
- (2) In subsection (6), for the words " section 379(1) of the Local Government (Scotland) Act 1947 " there shall be substituted the words " section 235(1) of the Local Government (Scotland) Act 1973. ".

*The Rent (Scotland) Act 1971*

4 In section 5 (cases excluded from protected or statutory tenancies), after subsection (5) the following subsection shall be inserted:—

“(5A) A tenancy shall not be a protected tenancy at any time when the interest of the landlord under the tenancy belongs to a housing co-operative, as defined in section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 (agreements for exercise by housing co-operatives of local authority housing functions) and the dwelling-house is comprised in an agreement to which that section applies or in a similar agreement between the co-operative and the Scottish Special Housing Association.”.

5 In section 48 (rent limit for controlled tenancies), after "this Part of this Act" there shall be inserted the words " or of section 10 of the Housing Rents and Subsidies (Scotland) Act 1975 ".

*The Housing (Financial Provisions) (Scotland) Act 1972*

6 In section 16 (rent allowances), after subsection (5) the following subsection shall be inserted:—

“(5A) A person is also a private tenant if he occupies a house let to him by a housing co-operative, as denned in section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 (agreements for exercise by housing co-operatives of local authority housing functions) and his tenancy would be a protected tenancy but for section 5(5A) of the Rent (Scotland) Act 1971.”.

7 In section 78(3) (houses to which the housing revenue account relates), after the word " accommodation" there shall be inserted the words " (including houses subject to an agreement between a local authority and a housing co-operative under section 5 of the Housing Rents and Subsidies (Scotland) Act 1975) ".

8 In Schedule 2 (computation of rent rebates and allowances), after paragraph 17, as amended by section 12(5) of the Rent Act 1974 (computation of allowances where tenant is student in receipt of award or grant), there shall be added the following paragraph—

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*“Extension of paragraph 17(3) to (5) to rebates*

- 17A The provisions of paragraph 17(3) to (5) above shall apply for the purpose of computing the amount of a rebate as they apply for the purpose of computing the amount of an allowance.”

*The Land Compensation (Scotland) Act 1973*

- 9 In section 27 (right to home loss payments where person displaced from dwelling)

- (1) For paragraph (d) of subsection (1) there shall be substituted the following paragraph—

“(d) the carrying out of any improvement to the dwelling or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered.”.

- (2) At the end of subsection (2) there shall be added (but not as part of paragraph (b)) the words " and in a case within subsection (1)(d) above, unless the displacement occurred on or after 31st July 1974 (on which date the Housing Act 1974 was passed). "

- (3) At the beginning of subsection (9) there shall be inserted the words " Subject to subsection (2) above, ".

- 10 In section 34 (disturbance payments for persons without compensatable interests)—

- (1) For paragraph (d) of subsection (1) there shall be substituted the following paragraph—

“(d) the carrying out of any improvement to a house or building on the land or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered.”.

- (2) At the end of subsection (2)(c) there shall be added the following paragraph—

“(d) in a case within subsection (1)(d) above, unless the displacement occurred on or after 31st July 1974 (on which date the Housing Act 1974 was passed).”.

- (3) At the beginning of subsection (9) there shall be inserted the words " Subject to subsection (2)(d) above, ".

- 11 In section 80(1) (general interpretation) the following definitions shall be inserted in the appropriate places—

“" housing association " has the meaning assigned to it by section 208(1) of the Housing (Scotland) Act 1966 ;

" registered ", in relation to a housing association, means registered in the register of housing associations established under section 13 of the Housing Act 1974 ;”

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*The Housing Act 1974*

- 12 In subsection (5)(a) of section 7 (borrowing powers of Housing Corporation), for the words " the day appointed for the coming into operation of this Part of this Act" there shall be substituted the words " 18th September 1974 (on which date the said section 9 was repealed) ".
- 13 In section 17 of the Housing Act 1974 (loans and grants limited to registered housing associations), at the end there shall be added the following subsection—
- “(5) Nothing in subsection (1)(b) above shall prevent a local authority from making loans under section 152(2)(a) of the Housing (Scotland) Act 1966 to an unregistered self-build society, as defined in section 12 above, for the purpose of enabling it to meet the whole or any part of any expenditure incurred or to be incurred by it in carrying out its objects.”.
- 14 In section 119(3) of the Housing Act 1974 (option mortgages), for the word " section ", in the second place where it occurs, there shall be substituted the word " subsection ".
- 15 Sections 109 to 116 of the Housing Act 1974 and Schedule 10 thereto shall cease to have effect as respects Scotland.
- 16 After section 116 of the Housing Act 1974 there shall be added the following section—
- “116A Provisions for Scotland in place of sections 110 to 116 and Schedule 10.**
- (1) Schedule 10A to\* this- Act shall have effect for the purpose of making provision for Scotland in relation to the matters dealt with in sections 110 to 112 and 114 to 116 of this Act and Schedule 10 thereto.
- (2) This section shall come into operation on 16th May 1975.”.
- 17 In section 131 of the Housing Act 1974 (short title, extent, etc.), in subsection (5), after "108" there shall be inserted " 110 to 116 ", and in subsection (6), for the words "Section 107 of this Act extends" there shall be substituted the words " Sections 107 and 116A of this Act extend ".
- 18 After Schedule 10 to the Housing Act 1974 there shall be inserted the following Schedule—

“SCHEDULE  
10A

PROVISIONS FOR SCOTLAND IN PLACE OF  
SECTIONS 110 TO 116 AND SCHEDULE 10

**PART I**

CONSENT TO DEMOLITION OF LISTED  
BUILDINGS IN HOUSING ACTION AREAS, ETC.

*Buildings subject to compulsory purchase orders for demolition subsequently listed*

- 1 (1) In this paragraph, references to a compulsory purchase order are to a compulsory purchase order made, before or after the coming into operation of this paragraph, under the provisions of—
- (a) Part III of the Housing (Scotland) Act 1966, or
  - (b) Part I of the Housing (Scotland) Act 1969, or
  - (c) Part II of the Housing (Scotland) Act 1974,
- in so far (as respects such an order made under the said Act of 1969 or 1974) as the order relates to a building acquired for demolition under those provisions.
- (2) Where a building to which a compulsory purchase order applies is (at any time after the making of the order) included in a list of buildings of special architectural or historic interest under section 52 of the Town and Country Planning (Scotland) Act 1972 or under any corresponding enactment repealed by that Act, the local authority making the order or its successor in the exercise of its functions relating to the order may, subject to sub-paragraph (3) below, apply to the Secretary of State (and only to him) under section 53 of the said Act of 1972 for consent to the demolition of the building.
- (3) No such application may be made by virtue of sub-paragraph (2) above after the expiry of the period of three months beginning with the date on which—
- (a) the building is included on the said list, or
  - (b) this paragraph comes into operation,
- whichever is the later.
- (4) The following provisions of this paragraph shall have effect where—
- (a) an application for consent has been made under the said section 53, by virtue of sub-paragraph (2) above, and has been refused, or
  - (b) the period of three months mentioned in sub-paragraph (3) above has expired without the authority having made such an application,
- and in this paragraph "relevant date" means the date of the refusal or, as the case may be, of the expiry of the period of three months.

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- (5) If, at the relevant date—
- (a) the building has not vested in the authority, and
  - (b) no notice to treat has been served by the authority under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, in respect of any interest in the building,
- the compulsory purchase order shall cease to have effect in relation to the building and, where applicable, the building shall cease to be comprised—
- (i) in the case of an order referred to in sub-paragraph (1)(a) above, in a clearance area ;
  - (ii) in the case of an order referred to in sub-paragraph (1)(b) above, in a housing treatment area ;
  - (iii) in the case of an order referred to in sub-paragraph (1)(c) above, in a housing action area.
- (6) Where a compulsory purchase order ceases to have effect, by virtue of sub-paragraph (5) above, in relation to a house which does not meet the tolerable standard, the authority concerned shall, in respect of the house, forthwith—
- (a) serve a notice under section 24 of the Housing (Scotland) Act 1969 (power of local authority to secure repair of house in state of serious disrepair), or
  - (b) make a closing order under Part II of the Housing (Scotland) Act 1966,
- whichever is appropriate.
- (7) Where sub-paragraph (5) above does not apply, the authority shall cease to be subject to the duty imposed by the enactment specified in head (a), (b) or (c) of sub-paragraph (1) above to demolish the building, and in relation to any interest in the building which at the relevant date has not vested in the authority the compulsory purchase order shall have effect as if—
- (a) in the case of a house, it had been made and confirmed under Part VII of the Housing (Scotland) Act 1966, and
  - (b) in any other case, it had been made and confirmed under Part VI of the Town and Country Planning (Scotland) Act 1972.
- (8) If the building, or any interest in the building, was vested in the authority at the relevant date, it shall be treated—
- (a) in the case of a house, as appropriated to the purposes of Part VII of the said Act of 1966, and
  - (b) in any other case, as appropriated to the purposes of Part VI of the said Act of 1972.
- (9) As respects a building falling within sub-paragraph (2) above, where no notice to treat has, at the date on which the building is included in the list referred to in that sub-paragraph, been served under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, the authority shall not serve such a notice until after the relevant date.

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(10) In this paragraph and in paragraphs 2 and 3 below, unless the context otherwise requires—

" housing treatment area " means an area defined under section 4(1) of the Housing (Scotland) Act 1969 ;

" housing action area " means an area defined under section 15 or 17 of the Housing (Scotland) Act 1974 ;

and other expressions which are also used in the Housing (Scotland) Act 1966 have the same meanings as in that Act.

*Buildings acquired by agreement for demolition subsequently listed*

2 (1) Where any of the enactments specified in paragraph 1(1) above applies to a building purchased by a local authority by agreement, and at any time (before or after the coming into operation of this paragraph) the building is included in a list of buildings of special architectural or historic interest under section 52 of the Town and Country Planning (Scotland) Act 1972 or under any corresponding enactment repealed by that Act, the authority or its successor in the exercise of the powers conferred by the enactments specified in paragraph 1(1) above may, subject to sub-paragraph (2) below, apply to the Secretary of State (and only to him) under the said section 53 for consent to the demolition of the building.

(2) No such application may be made by virtue of sub-paragraph (1) above after the expiry of the period of three months beginning with the date on which—

(a) the building is included on the said list, or

(b) this paragraph comes into operation,

whichever is the later.

(3) Where—

(a) an application for consent has been made under the said section 53, by virtue of sub-paragraph (1) above, and has been refused, or

(b) the period of three months mentioned in sub-paragraph (2) above has expired without the authority having made such an application,

the authority shall cease to be subject to the duty imposed by the enactment specified in head (a), (b) or (c) of paragraph 1(1) above to demolish the building, which shall be treated—

(i) in the case of a house, as appropriated to the purposes of Part VII of the Housing (Scotland) Act 1966, and

(ii) in any other case, as appropriated to the purposes of Part VI of the Town and Country Planning (Scotland) Act 1972.

*Residual cases where buildings subject to clearance orders are subsequently listed*

3 (1) Where a building, to which a clearance order made under Part III of the Housing (Scotland) Act 1966 continues (by virtue of Schedule 5 to the Housing (Scotland) Act 1969) to apply, is, at any time after the confirmation of the order, included in a list of buildings of architectural

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or historic interest under section 52 of the Town and Country Planning (Scotland) Act 1972 or under any corresponding enactment repealed by that Act, the local authority making the order or its successor in the exercise of its functions relating to the order may, subject to sub-paragraph (2) below, apply to the Secretary of State (and only to him) under section 53 of the said Act of 1972 for consent to the demolition of the building.

(2) No such application may be made by virtue of sub-paragraph (1) above after the expiry of the period of three months beginning with the date on which—

- (a) the building is included in the said list, or
- (b) this paragraph comes into operation,

whichever is the later.

(3) Where—

- (a) an application for consent has been made under the said section 53, by virtue of sub-paragraph (1) above, and has been refused, or
- (b) the period of three months mentioned in sub-paragraph (2) above has expired without the authority having made such an application,

the building shall cease to be comprised in a clearance area and to be subject to the clearance order.

(4) Where a house, which does not meet the tolerable standard, ceases to be included in a clearance area by virtue of sub-paragraph (3) above, the authority concerned shall, in respect of the building, forthwith—

- (a) serve a notice under section 24 of the Housing (Scotland) Act 1969 (power of local authority to secure repair of house in state of serious disrepair), or
- (b) make a closing order under Part II of the Housing (Scotland) Act 1966,

whichever is appropriate.

(5) Where a payment in respect of a house has been made by a local authority under section 49 of the said Act of 1966, in connection with a clearance order, and by virtue of this paragraph the house is excluded from the clearance area, then, if the person to whom the payment was made is entitled to an interest in the house he shall, subject to sub-paragraph (b) below, repay the payment on demand to the authority or to its successor as aforesaid.

(6) No repayment shall be required by virtue of sub-paragraph (5) above in a case where the authority have made a closing order in respect of the house and—

- (a) no appeal has, within the time allowed, been made against the making of the order, or
- (b) such an appeal has been made and has failed.



## PART II

### REHABILITATION ORDERS

#### *Application and effect of rehabilitation orders*

- 4 (1) This Part of this Schedule applies to any house which—
- (a) is included in a clearance area under Part III of the Housing (Scotland) Act 1966, or
  - (b) is included in a housing treatment area under Part I of the Housing (Scotland) Act 1969, where the resolution for the area provides for the demolition of the house,
- being a house which—
- (i) has been purchased by agreement or compulsorily at any time before 2nd December 1974 under section 38 of the said Act of 1966 or section 7 of the said Act of 1969 (provisions regarding acquisition of land in such areas), or
  - (ii) is subject to a compulsory purchase order which was made under the said section 38 or under the said section 7 (but not confirmed) before 2nd December 1974 and which, before 2nd March 1975, has been confirmed in accordance with Schedule 3 to the said Act of 1966 or (as the case may be) in accordance with Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by the said section 7, or
  - (iii) has been included in the area by virtue of section 41 of the said Act of 1966 or section 9 of the said Act of 1969 (land already belonging to the local authority).
- (2) Where any house to which this Part of this Schedule applies in terms of sub-paragraph (1) above does not comply with the full standard as defined in paragraph 13 below and, in the opinion of the local authority, it is capable of being and ought to be improved to that standard, the authority may make and submit to the Secretary of State an order (in this Part of this Schedule referred to as a "rehabilitation order") in relation to the house.
- (3) In addition to applying to any house to which this Part of this Schedule applies in terms of sub-paragraph (1) above, a rehabilitation order may, if the local authority think fit, be made to apply to any other relevant land, as defined in paragraph 13 below.
- (4) On the date on which a rehabilitation order becomes operative, the local authority shall cease to be subject to any duty, to demolish or secure the demolition of buildings on any land included in the order, imposed by Part III of the said Act of 1966 or Part I of the said Act of 1969.
- (5) Where by virtue of sub-paragraph (4) above a local authority are freed from the duty to demolish or secure the demolition of a house which does not comply with the full standard, the authority shall take such steps as are necessary—

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- (a) to bring the house up to the full standard, or
  - (b) where it is not vested in the authority, to ensure that it is brought up to that standard.
- (6) A local authority may accept undertakings for the purpose of sub-paragraph (5)(b) above from the owner of a house, or any other person who has or will have an interest in a house, concerning works to be carried out to bring it up to the full standard and the time within which they are to be carried out.

*Miscellaneous provisions relative to rehabilitation orders*

- 5 Where the owner of a house to which this Part of this Schedule applies in terms of paragraph 4(1) above, and which does not comply with the full standard, requests the local authority to make a rehabilitation order in respect of the house, and the authority refuse to make the order, they shall give him in writing their reasons for so refusing.
- 6 Where a local authority have made a rehabilitation order they shall not, until after the date on which the order becomes operative or on which confirmation of the order is refused,
- (a) serve notice to treat, under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, in respect of any land included in a compulsory purchase order made and confirmed by virtue of section 38 of the said Act of 1966 or section 7 of the said Act of 1969 which includes notice land as defined in paragraph 13 below ; or
  - (b) demolish, without the consent of the Secretary of State, any building on notice land.
- 7 (1) Where—
- (a) land included in a compulsory purchase order, made and confirmed by virtue of the said section 38 or the said section 7, is comprised in a rehabilitation order, and
  - (b) the rehabilitation order becomes operative in respect of that land, and
  - (c) no interest in the land has vested in the local authority before the date on which the rehabilitation order becomes operative, and
  - (d) neither the local authority nor a previous local authority entitled to serve a notice to treat in respect of any interest in the land under section 17 of the said Act of 1845 have done so before that date,
- the compulsory purchase order shall cease to have effect in relation to that land on that date, and if the land is included in a clearance area or housing treatment area, it shall cease to be so included.
- (2) On and after the date on which a rehabilitation order becomes operative, in a case where sub-paragraph (1) above does not apply in relation to an area of land comprised in that order, any compulsory purchase order relating to that land and confirmed by virtue of the said section 38 or the said section 7 shall have effect in relation to any interest in that land which at the said date was not vested in the authority—

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- (a) in so far as it relates to a house, as if it had been made and confirmed under Part VII of the said Act of 1966, and
  - (b) in so far as it relates to land other than a house, as if it had been made and confirmed under Part VI of the Town and Country Planning (Scotland) Act 1972.
- (3) Where a rehabilitation order becomes operative in respect of an area of land and any interest in that land is vested in the local authority at the date when the order becomes operative—
- (a) any such interest in a house shall be treated as appropriated to the purposes of Part VII of the said Act of 1966, and
  - (b) any such interest in land other than a house shall be treated as appropriated to the purposes of Part VI of the said Act of 1972.
- 8 A rehabilitation order may be made and confirmed notwithstanding that the effect of the order in excluding any land from a clearance area or from a housing treatment area is to sever that area into two or more parts ; and in any such case the provisions applicable to the area in Part III of the said Act of 1966 or in Part I of the said Act of 1969, relating to the effect of a compulsory purchase order when confirmed and to the proceedings to be taken after confirmation of such an order, shall apply as if those parts formed one clearance area or housing treatment area, as the case may be.

*Procedure for making and confirming rehabilitation orders*

- 9 A rehabilitation order shall be made in the prescribed form and shall describe, by reference to a map—
- (a) the houses to which, in terms of paragraph 4(1) above, it applies, and
  - (b) the other land to which, in terms of paragraph 4(3) above, it applies.
- 10 (1) Before submitting a rehabilitation order to the Secretary of State for confirmation, the local authority, except in so far as the Secretary of State directs otherwise—
- (a) shall publish in one or more newspapers circulating within their district a notice in the prescribed form stating that such an order has been made and describing the land to which it applies, and naming a place where a copy of the order and its accompanying map may be seen at all reasonable hours, and
  - (b) shall serve on any such person as is specified in sub-paragraph (2) below a notice in the prescribed form stating—
    - (i) the effect of the rehabilitation order,
    - (ii) that it is about to be submitted to the Secretary of State for confirmation, and
    - (iii) the time within which and the manner in which objections to the order can be made.
- (2) The persons mentioned in sub-paragraph (1)(2) above are—
- (a) every person on whom notice was served of the making by virtue of section 38 of the said Act of 1966 or section 7 of the said Act

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- of 1969 of any compulsory purchase order which, at the date of its confirmation, included any land subsequently comprised in the rehabilitation order;
- (b) every successor in title of such a person ;
  - (c) every owner, lessee and occupier of the relevant land other than a tenant for a month or a period less than a month;
  - (d) creditors in heritable securities over relevant land, so far as it is reasonably practicable to ascertain such persons ; and
  - (e) every person on whom notice would have been required to be served under head (c) or (d) above whose interest has been acquired under the said section 38 since the clearance area was declared to be such an area or (as the case may be) under the said section 7 since the housing treatment area was declared to be such an area.
- (3) A notice under this paragraph shall be accompanied by a statement of the grounds on which the local authority are seeking confirmation of the rehabilitation order.
- (4) A notice under this paragraph shall be served in accordance with section 5(3) of and paragraph 19 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- 11 (1) If no objection is duly made by any of the persons on whom notices are to be served under paragraph 10 above, or if all objections so made are withdrawn, the Secretary of State may confirm the order with or without modifications.
- (2) If any objection duly made is not withdrawn, the Secretary of State, before confirming the order, shall cause a public local inquiry to be held or afford to any person by whom an objection has been duly made and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) After considering any objection not withdrawn and the report of the person who held the inquiry or of the person appointed under sub-paragraph (2) above, the Secretary of State may confirm the order with or without modifications.
- (4) The Secretary of State may require any person who has made an objection to state the grounds of the objection in writing, and may disregard the objection if he is satisfied that it relates exclusively to matters which can be dealt with by the tribunal by whom any compensation is to be assessed.
- (5) The Secretary of State's power to modify a rehabilitation order includes power, subject to sub-paragraph (6) below, to extend it to any notice land.
- (6) The Secretary of State shall not extend the application of a rehabilitation order to any land unless he has served on the following persons, namely—
- (a) the local authority who made the rehabilitation order,
  - (b) every owner, lessee and occupier of that land, except a tenant for a month or a period less than a month, and

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- (c) so far as it is reasonably practicable to ascertain such persons, on the creditor in every heritable security over any such land, a notice stating the effect of his proposals, and has afforded them an opportunity to make their views known.
- 12 Paragraphs 6, 15 and 16 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notification, challenge of validity and date of operation of orders) shall apply in relation to rehabilitation orders as if—
- (a) any reference to a compulsory purchase order were a reference to a rehabilitation order and any reference to compulsory purchase were a reference to rehabilitation under this Part of this Act;
  - (b) any reference to the acquiring authority were a reference to the local authority ;
  - (c) the reference in the said paragraph 6 to paragraph 3 of that Schedule were a reference to paragraph 10 of this Schedule ;
  - (d) the reference in the said paragraph 15 to any such enactment as is mentioned in section 1(1) of that Act were a reference to this Part of this Schedule ;
  - (e) the references in the said paragraph 15 to any requirement of that Act and to any requirement of that Schedule thereof were references to any requirement of this Part of this Schedule and of any provision of that Act (or that Schedule, as the case may be) applicable to the rehabilitation order ;
  - (f) the references in the said paragraphs 15 and 16 to a certificate under Part III of that Schedule were deleted.

*Interpretation of this Part of this Schedule*

- 13 (1) In this Part of this Schedule, unless the context otherwise requires—
- " clearance area " means a clearance area under Part III of the Housing (Scotland) Act 1966 ;
  - " full standard ", in relation to a house, means the standard of a house which—
    - (a) meets the tolerable standard ;
    - (b) is in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house ; and
    - (c) is provided with all of the standard amenities ;
  - " house " has the same meaning as in the Housing (Scotland) Act 1966 ;
  - " housing treatment area " means a housing treatment area under Part I of the Housing (Scotland) Act 1969 ;
  - " local authority " has the meaning assigned to it by section 1 of the Housing (Scotland) Act 1966 ;
  - " notice land " means land in relation to which a notice is to be served under paragraph 10 above ;
  - " relevant land " means—

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- (a) land in the clearance area or housing treatment area (as the case may be), including land which has been included in that area by virtue of section 41 of the said Act of 1966 or section 9 of the said Act of 1969 (land already belonging to the local authority) ; or
  - (b) land surrounded by or adjoining that area, which the local authority or a previous local authority entitled to purchase the land under section 37 of the said Act of 1966 or under section 6 of the said Act of 1969 have determined to purchase (whether or not it has been so purchased);
- " standard amenities " and " tolerable standard " have the same meanings as in the Housing (Scotland) Act 1974.
- (2) The references to the Housing (Scotland) Act 1966 in section 197 of that Act (power to prescribe forms, etc.) shall include references to this Part of this Schedule.

### PART III

#### APPLICATION OF ENACTMENTS RELATING TO COMPENSATION ON COMPULSORY PURCHASE, ETC., TO CASES UNDER PART I OR PART II OF THIS SCHEDULE

##### *Compensation*

- 14 (1) it is hereby declared that where, under Part I or II of this Schedule, a compulsory purchase order is to be treated as made under Part VII of the Housing (Scotland) Act 1966 or Part VI of the Town and Country Planning (Scotland) Act 1972, compensation for the compulsory acquisition of the land comprised in the compulsory purchase order is to be assessed in accordance with the provisions applying to a compulsory acquisition under the said Part VII (or, as the case may be, the said Part VI).
- (2) Where, under Part I or II of this Schedule, land or any interest in land within any area is to be treated as appropriated by a local authority to the purposes of the said Part VII, compensation for its compulsory acquisition shall (where it increases the amount) be assessed or re-assessed in accordance with the provisions applying to a compulsory acquisition under the said Part VII.
- (3) Where, under paragraph 2 of Part I of this Schedule, or under Part II thereof, any interest in land acquired by a local authority by agreement (after the declaration of a clearance area, housing treatment area or housing action area which relates to that land) is to be treated as appropriated for the purposes of the said Part VII—
- (a) compensation shall (where sub-paragraph (2) above would have increased the amount) be assessed and paid as if the acquisition were a compulsory acquisition, under Part III of the Housing (Scotland) Act 1966, Part I of the Housing (Scotland) Act 1969 or Part II of the Housing (Scotland) Act 1974 (as the case may be), to which the said sub-paragraph (2) applied ; but

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- (b) there shall be deducted from the amount of compensation so payable any amount previously paid in respect of the acquisition of that interest by the authority.
- (4) Where sub-paragraph (2) or (3) above applies, the local authority shall serve on the person entitled to the compensation a notice in the prescribed form giving particulars of the amount of compensation payable in accordance with the provisions applying to a compulsory acquisition under the said Part VII, and if the person served does not, within twenty-one days from service of the notice, accept the particulars, or if he disputes the amount stated, the question of disputed compensation shall be referred to the Lands Tribunal for Scotland.
- (5) The notice shall be served not later than six months after—
- (a) the relevant date, as denned in paragraph 1(4) of this Schedule, or
  - (b) the date on which the rehabilitation order becomes operative for the purposes of Part II of this Schedule,
- (as the case may be), and paragraph 19 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (service of notices) shall apply to the notice.
- (6) Sub-paragraph (2) above shall be left out of account in considering whether, under sections 117 and 118 of the Lands Clauses Consolidation (Scotland) Act 1845, compensation has been properly paid for the land ; and accordingly sub-paragraph (2) above shall not prevent an acquiring authority from remaining in undisputed possession of the land.
- (7) Where sub-paragraph (2) above makes an increase in compensation to be assessed in accordance with sections 56 to 60 and 63 of the said Act of 1845 (absent and untraced owners)—
- (a) a notarial instrument executed under section 76 of that Act before the latest date for service of a notice under sub-paragraph (4) above shall not be invalid because the increase in compensation has not been paid, and
  - (b) it shall be the duty of the local authority, not later than six months after the said date, to proceed under the said sections and pay the proper additional amount into the bank.
- (8) Any sum payable by virtue of this paragraph shall carry interest at the rate prescribed under section 40 of the Land Compensation (Scotland) Act 1963 from the time of entry by the local authority on the land, or from vesting of the land or interest, whichever is the earlier, until payment.
- (9) In this paragraph, references to an increase in compensation shall be read as if any payments under—
- (a) section 49 of the Housing (Scotland) Act 1966, section 11 of the Housing (Scotland) Act 1969 or section 30 of the Housing (Scotland) Act 1974 (payments in respect of well-maintained houses and payments to owner-occupiers),

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- (b) section 160 of the said Act of 1966 or section 38 of the Land Compensation (Scotland) Act 1963 (allowances to persons displaced),
- (c) sections 18 to 20 of the said Act of 1969 (payments to owner-occupiers and others in respect of unfit houses purchased or demolished), and
- (d) section 34 of the Land Compensation (Scotland) Act 1973 (disturbance payments for persons without compensatable interests),

were, to the extent that they were made to the person in question, compensation in respect of the compulsory purchase.

- (10) In this paragraph, "prescribed" means prescribed under section 197 of the Housing (Scotland) Act 1966, and the references to that Act in that section shall include references to this paragraph.

*Extension of time limits for exercising powers  
under certain compulsory purchase orders*

- 15 In section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (time limits for exercising powers under compulsory purchase orders), there shall be added at the end (in substitution for the words originally added by section 116 of this Act) the following paragraph—

“For the purposes of this section no account shall be taken of any period during which an authority are, by virtue of Schedule 10A to the Housing Act 1974 (which relates among other things to buildings in clearance or housing treatment or housing action areas), prevented from serving notice to treat under section 17 of this Act.””.

- 19 In Schedule 14 to the Housing Act 1974, in paragraph 2(b) (transitional provision concerning loans by the Housing Corporation), for " (c) " there shall be substituted " (e) " .

SCHEDULE 4

Section 15.

REPEALS

Chapter	Short Title	Extent of Repeal
<a href="#">1966 c. 49.</a>	The Housing (Scotland) Act 1966.	Section 195.
<a href="#">1971 c. 41.</a>	The Rent (Scotland) Act 1971.	Section 79. Schedule 13.
<a href="#">1972 c. 46.</a>	The Housing (Financial Provisions) (Scotland) Act 1972.	In section 3, in subsection (1), in paragraph (a), the word

NOTE

The repeals in this Schedule relating to sections 3, 4 and 9 of the 1972 Act and to Schedule 4 to that Act have effect only as respects accounts and payments for the year 1975-76 and later years.



Chapter	Short Title	Extent of Repeal
		<p>"and", and paragraph (b); in subsection (2), the words after "expenditure per house"; in subsection (4), in paragraph (a), the word "and", paragraph (b), the words " and the associated contribution out of the general rate fund," and column 3 of the Table; subsections (6), (9)(c) and (d) and (11).</p> <p>In section 4, in subsection (1), in paragraph (a), the word "and", and paragraph (b); in subsection (2), the words " or associated contribution out of the general rate fund "; in subsection (4), in paragraph (a), the word " and ", and paragraph (b); and in subsection (5), the words " under section 28 or 29 of this Act".</p> <p>In section 9, in subsection (2), the words after " expenditure per house"; and subsection (7).</p> <p>Sections 27 to 31.</p> <p>Sections 34 and 35.</p> <p>Sections 37 and 38.</p> <p>Section 44.</p> <p>Section 72.</p> <p>In section 74, the words from "Notwithstanding" to " 1947"</p> <p>Section 76.</p> <p>In Schedule 4, paragraph 1(1)(d); paragraph 1(5); paragraph 1(6); paragraph 2(f); paragraphs 5 and 6.</p> <p>Schedule 6.</p>

NOTE

The repeals in this Schedule relating to sections 3, 4 and 9 of the 1972 Act and to Schedule 4 to that Act have effect only as respects accounts and payments for the year 1975-76 and later years.

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Chapter	Short Title	Extent of Repeal
1974 c. 44.	The Housing Act 1974.	<p>In Schedule 7, paragraphs 9 to 12.</p> <p>In Schedule 9, paragraph 11.</p> <p>In section 29(1), the words "other than associations falling within section 18(1)(b) of this Act".</p> <p>In section 32(1), the words "or paragraph (b)".</p> <p>Sections 109 to 116.</p> <p>Schedule 10.</p> <p>In Schedule 13, in paragraph 42(1)(a), the words from "and at" to the end of head (a), and paragraph 43(1)(b).</p>
NOTE		
<p>The repeals in this Schedule relating to sections 3, 4 and 9 of the 1972 Act and to Schedule 4 to that Act have effect only as respects accounts and payments for the year 1975-76 and later years.</p>		