

## SCHEDULES

### SCHEDULE 4

Sections 16(5) and 27(5).

#### PREMISES OCCUPIED UNDER LEASES

#### PART I

#### OCCUPATION BY EMPLOYER OR TRADE ORGANISATION

##### *Failure to obtain consent to alteration*

- 1 If any question arises as to whether the occupier has failed to comply with the section 6 or section 15 duty, by failing to make a particular alteration to the premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to the making of the alteration.

##### *Joining lessors in proceedings under section 8*

- 2 (1) In any proceedings under section 8, in a case to which section 16 applies, the complainant or the occupier may ask the tribunal hearing the complaint to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the complaint begins.
- (3) The tribunal may refuse the request if it is made after the hearing of the complaint begins.
- (4) The request may not be granted if it is made after the tribunal has determined the complaint.
- (5) Where a lessor has been so joined or sisted as a party to the proceedings, the tribunal may determine—
- (a) whether the lessor has—
    - (i) refused consent to the alteration, or
    - (ii) consented subject to one or more conditions, and
  - (b) if so, whether the refusal or any of the conditions was unreasonable,
- (6) If, under sub-paragraph (5), the tribunal determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
- (a) make such declaration as it considers appropriate;
  - (b) make an order authorising the occupier to make the alteration specified in the order;
  - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the occupier to comply with conditions specified in the order.

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- (8) Any step taken by the tribunal under sub-paragraph (6) may be in substitution for, or in addition to, any step taken by the tribunal under section 8(2).
- (9) If the tribunal orders the lessor to pay compensation it may not make an order under section 8(2) ordering the occupier to do so.

#### *Regulations*

- 3 Regulations may make provision as to circumstances in which—
- (a) a lessor is to be taken, for the purposes of section 16 and this Part of this Schedule to have—
    - (i) withheld his consent;
    - (ii) withheld his consent unreasonably;
    - (iii) acted reasonably in withholding his consent;
  - (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
  - (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

#### *Sub-leases etc.*

- 4 The Secretary of State may by regulations make provision supplementing, or modifying, the provision made by section 16 or any provision made by or under this Part of this Schedule in relation to cases where the occupier occupies premises under a sub-lease or sub-tenancy.

## **PART II**

### OCCUPATION BY PROVIDER OF SERVICES

#### *Failure to obtain consent to alteration*

- 5 If any question arises as to whether the occupier has failed to comply with the section 21 duty, by failing to make a particular alteration to premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to the making of the alteration.

#### *Reference to court*

- 6 (1) If the occupier has applied in writing to the lessor for consent to the alteration and—
- (a) that consent has been refused, or
  - (b) the lessor has made his consent subject to one or more conditions,
- the occupier or a disabled person who has an interest in the proposed alteration to the premises being made, may refer the matter to a county court or, in Scotland, to the sheriff.
- (2) In the following provisions of this Schedule “court” includes “sheriff”.

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- (3) On such a reference the court shall determine whether the lessor's refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.
- (4) If the court determines—
  - (a) that the lessor's refusal was unreasonable, or
  - (b) that the condition is, or any of the conditions are, unreasonable,it may make such declaration as it considers appropriate or an order authorising the occupier to make the alteration specified in the order.
- (5) An order under sub-paragraph (4) may require the occupier to comply with conditions specified in the order.

*Joining lessors in proceedings under section 25*

- 7 (1) In any proceedings on a claim under section 25, in a case to which this Part of this Schedule applies, the plaintiff, the pursuer or the occupier concerned may ask the court to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.
- (5) Where a lessor has been so joined or sisted as a party to the proceedings, the court may determine—
  - (a) whether the lessor has—
    - (i) refused consent to the alteration, or
    - (ii) consented subject to one or more conditions, and
  - (b) if so, whether the refusal or any of the conditions was unreasonable.
- (6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
  - (a) make such declaration as it considers appropriate;
  - (b) make an order authorising the occupier to make the alteration specified in the order;
  - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the occupier to comply with conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the occupier to do so.

*Regulations*

- 8 Regulations may make provision as to circumstances in which—
  - (a) a lessor is to be taken, for the purposes of section 27 and this Part of this Schedule to have—
    - (i) withheld his consent;
    - (ii) withheld his consent unreasonably;
    - (iii) acted reasonably in withholding his consent;

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- (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
- (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

*Sub-leases etc.*

- 9 The Secretary of State may by regulations make provision supplementing, or modifying, the provision made by section 27 or any provision made by or under this Part of this Schedule in relation to cases where the occupier occupies premises under a sub-lease or sub-tenancy.