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## SCHEDULES

### SCHEDULE 3

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

#### PART I

##### ADAPTATIONS OF PART II OF ACT OF 1961

- 1 For any reference to the Housing Act 1957 there shall be substituted a reference to the Housing (Scotland) Act 1950.
- 2 (a) Any provision for an application to a county court shall be construed as a provision for an application to the sheriff, and references to a county court shall be construed accordingly; and any such application to the sheriff shall be conducted and disposed of in like manner as proceedings brought under the Small Debt (Scotland) Acts 1837 to 1889, and the determination of the sheriff on any such application shall be final and conclusive ;
- (b) Any provision for an appeal to a magistrates' court or to a county court shall be construed as a provision for an appeal to the sheriff, and references to a magistrates' court or to a county court shall be construed accordingly ; and the provisions of section 166 of the Housing (Scotland) Act 1950 (other than subsection (3) of that section) shall apply to any such appeal to the sheriff as they apply to appeals to the sheriff under that Act.
- 3 For any reference to the Minister there shall be substituted a reference to the Secretary of State.
- 4 Any reference to an agent or trustee shall include a reference to a tutor, curator, or factor.
- 5 In section 12—
- (a) in subsection (6), the reference to thirty-five days shall be a reference to forty-two days ; and
- (b) for subsection (7) there shall be substituted the following subsection—
- “(7) As soon as practicable after an order under this section has come into force the local authority shall cause the order to be recorded in the General Register of Sasines, and if any such order is revoked the authority shall as soon as practicable cause to be recorded in the General Register of Sasines a notice stating that the order has been revoked.”.
- 6 In section 13(1), for the words " in common use ", wherever they occur, there shall be substituted the words " used in common by persons living in the house " , and after paragraph (c) there shall be inserted the following paragraph—
- “(cc) of the roof and windows forming part of the house”.
- 7 In section 15—

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- (a) in subsection (1)(a), for the reference to subsection (2) of section thirty-nine of the principal Act there shall be substituted a reference to section 7(3) of the principal Act; and
- (b) in subsection (1)(b), the words " at a rackrent", wherever they occur, shall be omitted.

8 In section 16—

- (a) in subsection (2), the words " under the Fire Services Act, 1947 " shall be omitted, for the words " that Act " there shall be substituted the words " the Fire Services Act 1947 " , and the words " and, in the administrative county of London, shall not serve such a notice except with the consent of the London County Council " shall be omitted ;
- (b) " fire authority" means, in relation to any area, the authority for the time being constituted the fire authority for that area by the Fire Services Act 1947, except that in relation to an area the fire brigade for which is administered by such a joint committee as is mentioned in section 36(4)(b) of that Act, it means that joint committee.

9 In section 18—

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

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

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

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

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

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- (c) subsection (7) shall not apply ;
  - (d) in subsection (8), the words " or the highest rate " shall be omitted, and for the reference to subsection (6) of section ten of the principal Act there shall be substituted a reference to section 8(3) of the principal Act;
  - (e) subsection (9) shall not apply.
- 10 In section 19—
- (a) in subsection (8), for the reference to thirty-five days there shall be a reference to forty-two days ;
  - (b) in subsection (9)(c), after the word " names " there shall be inserted the words " ages and sex ",  
and after the words " individuals and " there shall be inserted the words " the names of ";
  - (c) in subsection (11), the references to section ninety of the principal Act, and the words from " In this subsection " to the end, shall be omitted ; and
  - (d) in subsection (12), the words from " and shall be " to the end shall be omitted.
- 11 Section 20 shall not apply.
- 12 In section 21(1), after paragraph (b) there shall be inserted the words " (being in either case a building all the dwellings in which are owned by the same person) ".
- 13 In section 22(4), for the reference to section one hundred and seventy of the principal Act there shall be substituted a reference to section 168 of the principal Act.
- 14 In section 23—
- (a) for subsection (2) there shall be substituted the following subsection—
    - “(2) If the superior or owner of any lands and heritages gives notice to the local authority of his estate in those lands and heritages, the authority shall give to him notice of any proceedings taken by them in pursuance of the foregoing provisions of this Part of this Act in relation to those lands and heritages or any part thereof.”;
  - (b) in subsection (3), for the reference to any covenant or contract there shall be substituted a reference to any agreement or stipulation ;
  - (c) in subsection (7)—
    - (i) for paragraph (a) there shall be substituted the following paragraph—
      - “(a) any person holding the interest of the lessee under a sublease of the house ; and”;
    - (ii) in paragraph (b), " the Rent Acts " means the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 ;
  - (d) subsections (8) and (9) shall not apply.
- 15 Sections 24 to 27 shall not apply.