

*Changes to legislation: There are currently no known outstanding effects for the Rent Act 1974, SCHEDULE 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Section 2

#### TENANCIES GRANTED BY RESIDENT LANDLORDS

##### PART I

##### SECTION TO BE INSERTED AFTER SECTION 5 OF THE RENT ACT

1 ..... F1

##### Textual Amendments

**F1** Sch. 1 paras. 8–16, Sch. 2 paras. 1, 3, 4 repealed by Rent Act 1977 (c. 42, SIF 75:3), s. 155, Sch. 25 (subject to the savings and transitional provisions in Sch. 24)

2 The following section shall be inserted after section 5 of the <sup>M1</sup>Rent (Scotland) Act 1971 :—

**“5A No protected tenancy where landlord’s interest belongs to resident landlord.**

- (1) Subject to subsection (6) below, a tenancy of a dwelling-house which is granted on or after the commencement date within the meaning of the Rent Act 1974 shall not be a protected tenancy at any time if—
- (a) the dwelling-house forms part only of a building and that building is not a purpose-built block of flats ; and
  - (b) subject to subsection (2) below, the tenancy was granted by a person who, at the time when he granted it, occupied as his residence another dwelling-house which also forms part of that building ; and
  - (c) subject to subsection (3) below, at all times since the tenancy was granted, the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which also formed part of that building.
- (2) The condition in paragraph (b) of subsection (1) above shall be deemed to be fulfilled if the tenancy was granted by trustees and, at the time when the tenancy was granted, the interest of the landlord under the tenancy thereby created was held on trust for a person who was entitled to the liferent or to the fee or a share of the fee of that interest and who occupied as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection.

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- (3) In determining whether the condition in paragraph (c) of subsection (1) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
- (a) any period of not more than 14 days beginning with the date of the conveyance of the interest of the landlord under the tenancy to an individual who, during that period, does not occupy as his residence another dwelling-house which forms part of the building concerned ;
  - (b) if, within a period falling within paragraph (a) above, the individual concerned notifies the tenant in writing of his intention to occupy as his residence another such dwelling-house as is referred to in that paragraph, the period beginning with the date of the conveyance mentioned in that paragraph and ending—
    - (i) at the expiry of the period of 6 months beginning on that date, or
    - (ii) on the date on which the interest of the landlord under the tenancy ceases to be held by that individual, or
    - (iii) on the date on which the condition in subsection (1)(c) above again applies,whichever is the earlier ; and
  - (c) any period of not more than 12 months beginning with the date of death of the landlord under the tenancy during which the interest of the landlord under the tenancy is vested in his executor.
- (4) Throughout any period which, by virtue of subsection (3) above, falls to be disregarded for the purpose of determining whether the condition in subsection (1)(c) above is fulfilled with respect to a tenancy, no order for possession of the dwelling-house subject to that tenancy shall be made, other than an order which might be made if that tenancy were or, as the case may be, had been a regulated tenancy.
- (5) During any period when—
- (a) the interest of the landlord under the tenancy referred to in subsection (1) above is vested in trustees ; and
  - (b) that interest is held on trust for a person who is entitled to the life interest or to the fee or a share of the fee of that interest and who occupies as his residence a dwelling-house which forms part of the building referred to in paragraph (a) of that subsection,
- the condition in paragraph (c) of that subsection shall be deemed to be fulfilled and, accordingly, no part of that period shall be disregarded by virtue of subsection (3) above.
- (6) This section does not apply to a tenancy of a dwelling-house which forms part of a building if the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building.
- (7) For the purposes of this section, a person shall be treated as occupying a dwelling-house as his residence if, so far as the nature of the case allows, he would be regarded as retaining possession of the dwelling-house for the purposes of paragraph (a) of section 3(1) above if he were such a person as is referred to in that paragraph.

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- (8) For the purposes of this section—
- (a) a building is a purpose-built block of flats if, as constructed it contained, and it contains, two or more flats, and for this purpose “flat” has the same meaning as in section 208(1) of the Housing (Scotland) Act 1966 ;
  - (b) “conveyance” includes the grant of a tenancy and any other conveyance or transfer other than upon death ;
  - (c) “the date of the conveyance” means the date on which the conveyance was granted, delivered or otherwise made effective.”

**Modifications etc. (not altering text)**

**C1** The text of Sch. 1 paras. 1, 4(1), 6, 7, 17, 18, 20–25, Sch. 2 paras. 2, 5, 6, Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M1** 1971 c.28.

**PART II**

3, 4. .... **F2**

**Textual Amendments**

**F2** Sch. 1 paras. 8–16, Sch. 2 paras. 1, 3, 4 repealed by Rent Act 1977 (c. 42, SIF 75:3), s. 155, Sch. 25 (subject to the savings and transitional provisions in Sch. 24)

**PART III**

AMENDMENTS OF PART X OF <sup>M2</sup>RENT (SCOTLAND) ACT 1971

**Marginal Citations**

**M2** 1971 c. 28.

5 In section 118 of the Rent (Scotland) Act 1971 (provisions where tenant shares accommodation with landlord) in paragraph (c) after the words “paragraph (b) above” there shall be inserted the words “ or by reason of those circumstances and the operation of section 5A of this Act ”.

**Modifications etc. (not altering text)**

**C2** The text of Sch. 1 paras. 1, 4(1), 6, 7, 17, 18, 20–25, Sch. 2 paras. 2, 5, 6, Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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6 After section 119 of that Act there shall be inserted the following section:—

**“119A Application of Part VII to tenancies falling within section 5A.**

- (1) If and so long as a tenancy is, by virtue only of section 5A of this Act, precluded from being a protected tenancy, it shall be treated for the purposes of Part VII of this Act as a contract to which that Part applies, notwithstanding that the rent may not include payment for the use of furniture or for services.
- (2) In any case where—
  - (a) a tenancy which, by virtue only of section 5A of this Act, was precluded from being a protected tenancy ceases to be so precluded and accordingly becomes a protected tenancy, and
  - (b) before it became a protected tenancy a rent was registered for the dwelling-house concerned under Part VII of this Act,

the amount which is so registered shall be deemed to be registered under Part IV of this Act as the rent for the dwelling-house which is let on that tenancy, and that registration shall be deemed to take effect on the day the tenancy becomes a protected tenancy.
- (3) Section 40(3) of this Act shall not apply to an application for the registration under Part IV of this Act of a rent different from that which is deemed to be registered as mentioned in subsection (2) above.
- (4) The reference in section 41(1)(b) of this Act to a rent being registered for a dwelling-house does not include a rent which is deemed to be registered as mentioned in subsection (2) above.
- (5) If, immediately before a tenancy became a protected tenancy as mentioned in subsection (2)(a) above, the rates in respect of the dwelling-house were borne as mentioned in subsection (2A) of section 89 of this Act and the fact that they were so borne was noted as required by that subsection, then, in the application of Part IV of this Act in relation to the protected tenancy, section 43(2) of this Act shall be deemed to apply.
- (6) If, in a case where a tenancy becomes a protected tenancy as mentioned in subsection (2)(a) above,—
  - (a) a notice to quit had been served in respect of the dwelling-house concerned before the date on which the tenancy became a protected tenancy, and
  - (b) the period at the end of which that notice to quit takes effect had, before that date, been extended under Part VII of this Act, and
  - (c) that period has not expired before that date, the notice to quit shall take effect on the day following that date (whenever it would otherwise take effect) and, accordingly, on that day the protected tenancy shall become a statutory tenancy.”

**Modifications etc. (not altering text)**

**C3** The text of Sch. 1 paras. 1, 4(1), 6, 7, 17, 18, 20–25, Sch. 2 paras. 2, 5, 6, Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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