

## SCHEDULES

### SCHEDULE 2

Section 2.

#### TENANCIES GRANTED BY RESIDENT LANDLORDS

#### PART I

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

1 The following section shall be inserted after section 5 of the Rent Act 1968:—

**“5A No protected tenancy in certain cases where landlord's interest belongs to resident landlord.**

- (1) Subject to subsection (5) 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) the tenancy was granted by a person who, at the time that he granted it, occupied as his residence another dwelling-house which also forms part of that building ; and
  - (c) subject to subsection (2) 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) 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 on which the interest of the landlord under the tenancy becomes vested at law and in equity in 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 on which the interest of the landlord under the tenancy becomes vested in that individual as 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 that interest ceases to be so vested, or

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- (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 on which the interest of the landlord under the tenancy becomes, and during which it remains, vested—
    - (i) in the personal representatives of a deceased person acting in that capacity; or
    - (ii) in trustees as such ; or
    - (iii) by virtue of section 9 of the Administration of Estates Act 1925, in the Probate Judge, within the meaning of that Act.
- (3) During any period when—
  - (a) the interest of the landlord under the tenancy referred to in subsection (1) above is vested in trustees as such, and
  - (b) that interest is or, if it is held on trust for sale, the proceeds of its sale are held on trust for any person 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 sub-section shall be deemed to be fulfilled and, accordingly, no part of that period shall be disregarded by virtue of subsection (2) above.
- (4) Throughout any period which, by virtue of subsection (2) above, is 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 shall be made for possession of the dwelling-house subject to that tenancy, other than an order which might be made if that tenancy were or, as the case may be, had been a regulated tenancy.
- (5) This section does not apply to a tenancy of a dwelling-house which forms part of a building if—
  - (a) 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, or
  - (b) the tenancy is a tenancy for a term of years certain and is granted to a person who, immediately before it was granted, was the tenant under an earlier tenancy of that dwelling-house or any other dwelling-house in that building and, by virtue of this section, that earlier tenancy was not a protected tenancy,

and for the purposes of this subsection a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term.
- (6) For the purposes of this section 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" means a dwelling-house which—
  - (a) forms part only of a building ; and
  - (b) is separated horizontally from another dwelling-house which forms part of the same 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 fulfils the same conditions as, by virtue of section 3(2) above, are required to be fulfilled by a statutory tenant of a dwelling-house.”

- 2 The following section shall be inserted after section 5 of the 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.
- (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

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- (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 liferent 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.
- (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."

## PART II

### AMENDMENTS OF PART IX OF RENT ACT 1968

- 3 In section 101 of the Rent Act 1968 (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 ".
- 4 After section 102 of that Act there shall be inserted the following section:—

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**“102A Application of Part VI 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 VI 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 concerned under Part VI 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 44(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 45(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 concerned were borne as mentioned in subsection (2A) of section 74 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 47(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 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 VI 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.”

**PART III**

**AMENDMENTS OF PART X OF RENT (SCOTLAND) ACT 1971**

- 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)

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above " there shall be inserted the words " or by reason of those circumstances and the operation of section 5A of this Act ".

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.”