

Changes to legislation: Housing (Scotland) Act 1988, Part III is up to date with all changes known to be in force on or before 25 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 5

GROUND FOR POSSESSION OF HOUSES LET ON ASSURED TENANCIES

Modifications etc. (not altering text)

- C1** Sch. 5 modified (temp.) (28.10.2022) by virtue of [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#) (asp 10), s. 13(1), [sch. 2 para. 5\(4\)](#) (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by [S.S.I. 2023/82](#), regs. 1(3), [2\(2\)](#)); and (27.9.2023) by [S.S.I. 2023/275](#), regs. 1(2), [2\(2\)](#)

PART III

SUITABLE ALTERNATIVE ACCOMMODATION

- 1 For the purposes of Ground 9 above, a certificate of the local authority for the area in which the house in question is situated, or, where the house in question is in a new town, of the development corporation established for its purposes under the ^{M1}New Towns (Scotland) Act 1968 or, in any case, of Scottish Homes, certifying that the authority, the Corporation or, as the case may be, Scottish Homes, will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.

Marginal Citations

- M1** 1968 c.16.

- 2 Where no such certificate as is mentioned in paragraph 1 above is produced to the [^{F1}First-tier Tribunal], accommodation shall be deemed to be suitable for the purposes of Ground 9 above if it consists of either—
- (a) premises which are to be let as a separate dwelling such that they will then be let on an assured tenancy, other than—
- (i) a tenancy in respect of which notice is served not later than the beginning of the tenancy that possession might be recovered on any of Grounds 1 to 5 above; or
- (ii) a short assured tenancy, within the meaning of Part II of this Act; or
- (b) premises to be let as a separate dwelling on terms which will, in the opinion of the [^{F2}Tribunal], afford to the tenant security of tenure reasonably equivalent to the security afforded by Part II of this Act in the case of an assured tenancy of a kind mentioned in paragraph (a) above,
- and, in the opinion of the [^{F3}Tribunal], the accommodation fulfils the relevant conditions as defined in paragraph 3 below.

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Textual Amendments

- F1** Words in Sch. 5 para. 2 substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(d\)\(i\)](#); S.S.I. 2017/330, art. 3, sch.
- F2** Word in Sch. 5 para. 2(b) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(d\)\(ii\)](#); S.S.I. 2017/330, art. 3, sch.
- F3** Word in Sch. 5 para. 2 substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(d\)\(iii\)](#); S.S.I. 2017/330, art. 3, sch.

- 3 (1) For the purposes of paragraph 2 above, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his family as regards proximity to place of work, and either—
- (a) similar as regards rental and extent to the accommodation afforded by houses provided in the neighbourhood by any local authority or development corporation or by Scottish Homes for persons whose needs as regards extent are, in the opinion of the [^{F4}First-tier Tribunal], similar to those of the tenant and of his family; or
 - (b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character; and
- that, if any furniture was provided for use under the assured tenancy in question, furniture is provided for use in the accommodation which is either similar to that so provided or is reasonably suitable to the needs of the tenant and his family.
- (2) For the purposes of sub-paragraph (1)(a) above, a certificate of a local authority or development corporation or of Scottish Homes stating—
- (a) the extent of the accommodation afforded by houses provided by that body to meet the needs of tenants with families of such number as may be specified in the certificate; and
 - (b) the amount of the rent charged by that body for houses affording accommodation of that extent,
- shall be conclusive evidence of the facts so stated.

Textual Amendments

- F4** Words in Sch. 5 para. 3(1)(a) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\), sch. 1 para. 48\(e\)](#); S.S.I. 2017/330, art. 3, sch.

- 4 Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded house for the purposes of Part VII of the ^{M2}Housing (Scotland) Act 1987.

Marginal Citations

- M2** 1987 c. 26.

- 5 Any document purporting to be a certificate of a local authority or development corporation named therein or of Scottish Homes issued for the purposes of this Part of this Schedule and to be signed by the proper officer of that body shall be

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received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.

- 6 Local authorities, development corporations and Scottish Homes may, for the purposes of this Part of this Schedule, furnish particulars as to the availability, extent and character of alternative accommodation.
- 7 In this Part of this Schedule “local authority” means an islands or district council.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)