

SCHEDULES

SCHEDULE 1

Section 1.

TENANCIES WHICH CANNOT BE ASSURED TENANCIES

PART I

THE TENANCIES

Tenancies entered into before commencement

- 1 A tenancy which is entered into before, or pursuant to a contract made before, the commencement of this Act.

Tenancies of dwelling-houses with high rateable values

- 2 A tenancy under which the dwelling-house has for the time being a rateable value which,—
- (a) if it is in Greater London, exceeds £1,500; and
 - (b) if it is elsewhere, exceeds £750.

Tenancies at a low rent

- 3 (1) A tenancy under which either no rent is payable or the rent payable is less than two-thirds of the rateable value of the dwelling-house for the time being.
- (2) In determining whether the rent under a tenancy falls within sub-paragraph (1) above, there shall be disregarded such part (if any) of the sums payable by the tenant as is expressed (in whatever terms) to be payable in respect of rates, services, management, repairs, maintenance or insurance, unless it could not have been regarded by the parties to the tenancy as a part so payable.

Business tenancies

- 4 A tenancy to which Part II of the Landlord and Tenant Act 1954 applies (business tenancies).

Licensed premises

- 5 A tenancy under which the dwelling-house consists of or comprises premises licensed for the sale of intoxicating liquors for consumption on the premises.

Tenancies of agricultural land

- 6 (1) A tenancy under which agricultural land, exceeding two acres, is let together with the dwelling-house.

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- (2) In this paragraph “agricultural land” has the meaning set out in section 26(3)(a) of the General Rate Act 1967 (exclusion of agricultural land and premises from liability for rating).

Tenancies of agricultural holdings

- 7 A tenancy under which the dwelling-house—
- (a) is comprised in an agricultural holding (within the meaning of the Agricultural Holdings Act 1986); and
 - (b) is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding.

Lettings to students

- 8 (1) A tenancy which is granted to a person who is pursuing, or intends to pursue, a course of study provided by a specified educational institution and is so granted either by that institution or by another specified institution or body of persons.
- (2) In sub-paragraph (1) above “specified” means specified, or of a class specified, for the purposes of this paragraph by regulations made by the Secretary of State by statutory instrument.
- (3) A statutory instrument made in the exercise of the power conferred by sub-paragraph (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Holiday lettings

- 9 A tenancy the purpose of which is to confer on the tenant the right to occupy the dwelling-house for a holiday.

Resident landlords

- 10 (1) A tenancy in respect of which the following conditions are fulfilled—
- (a) that the dwelling-house forms part only of a building and, except in a case where the dwelling-house also forms part of a flat, the building is not a purpose-built block of flats; and
 - (b) that, subject to Part III of this Schedule, the tenancy was granted by an individual who, at the time when the tenancy was granted, occupied as his only or principal home another dwelling-house which,—
 - (i) in the case mentioned in paragraph (a) above, also forms part of the flat; or
 - (ii) in any other case, also forms part of the building; and
 - (c) that, subject to Part III of this Schedule, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to an individual who, at the time he owned that interest, occupied as his only or principal home another dwelling-house which,—
 - (i) in the case mentioned in paragraph (a) above, also formed part of the flat; or
 - (ii) in any other case, also formed part of the building; and

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- (d) that the tenancy is not one which is excluded from this sub-paragraph by sub-paragraph (3) below.
- (2) If a tenancy was granted by two or more persons jointly, the reference in sub-paragraph (1)(b) above to an individual is a reference to any one of those persons and if the interest of the landlord is for the time being held by two or more persons jointly, the reference in sub-paragraph (1)(c) above to an individual is a reference to any one of those persons.
- (3) A tenancy (in this sub-paragraph referred to as “the new tenancy”) is excluded from sub-paragraph (1) above if—
 - (a) it is granted to a person (alone, or jointly with others) who, immediately before it was granted, was a tenant under an assured tenancy (in this sub-paragraph referred to as “the former tenancy”) of the same dwelling-house or of another dwelling-house which forms part of the building in question; and
 - (b) the landlord under the new tenancy and under the former tenancy is the same person or, if either of those tenancies is or was granted by two or more persons jointly, the same person is the landlord or one of the landlords under each tenancy.

Crown tenancies

- 11 (1) A tenancy under which the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (2) The reference in sub-paragraph (1) above to the case where the interest of the landlord belongs to Her Majesty in right of the Crown does not include the case where that interest is under the management of the Crown Estate Commissioners.

Local authority tenancies etc.

- 12 (1) A tenancy under which the interest of the landlord belongs to—
 - (a) a local authority, as defined in sub-paragraph (2) below;
 - (b) the Commission for the New Towns;
 - (c) the Development Board for Rural Wales;
 - (d) an urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980;
 - (e) a development corporation, within the meaning of the New Towns Act 1981;
 - (f) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities);
 - (g) a residuary body, within the meaning of the Local Government Act 1985;
 - (h) a fully mutual housing association; or
 - (i) a housing action trust established under Part III of this Act.
- (2) The following are local authorities for the purposes of sub-paragraph (1)(a) above—
 - (a) the council of a county, district or London borough;
 - (b) the Common Council of the City of London;
 - (c) the Council of the Isles of Scilly;
 - (d) the Broads Authority;
 - (e) the Inner London Education Authority; and

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- (f) a joint authority, within the meaning of the Local Government Act 1985.

Transitional cases

- 13 (1) A protected tenancy, within the meaning of the Rent Act 1977.
 (2) A housing association tenancy, within the meaning of Part VI of that Act.
 (3) A secure tenancy.
 (4) Where a person is a protected occupier of a dwelling-house, within the meaning of the Rent (Agriculture) Act 1976, the relevant tenancy, within the meaning of that Act, by virtue of which he occupies the dwelling-house.

PART II

RATEABLE VALUES

- 14 (1) The rateable value of a dwelling-house at any time shall be ascertained for the purposes of Part I of this Schedule as follows—
 (a) if the dwelling-house is a hereditament for which a rateable value is then shown in the valuation list, it shall be that rateable value;
 (b) if the dwelling-house forms part only of such a hereditament or consists of or forms part of more than one such hereditament, its rateable value shall be taken to be such value as is found by a proper apportionment or aggregation of the rateable value or values so shown.
 (2) Any question arising under this Part of this Schedule as to the proper apportionment or aggregation of any value or values shall be determined by the county court and the decision of that court shall be final.
- 15 Where, after the time at which the rateable value of a dwelling-house is material for the purposes of any provision of Part I of this Schedule, the valuation list is altered so as to vary the rateable value of the hereditament of which the dwelling-house consists (in whole or in part) or forms part and the alteration has effect from that time or from an earlier time, the rateable value of the dwelling-house at the material time shall be ascertained as if the value shown in the valuation list at the material time had been the value shown in the list as altered.
- 16 Paragraphs 14 and 15 above apply in relation to any other land which, under section 2 of this Act, is treated as part of a dwelling-house as they apply in relation to the dwelling-house itself.

PART III

PROVISIONS FOR DETERMINING APPLICATION OF PARAGRAPH 10 (RESIDENT LANDLORDS)

- 17 (1) In determining whether the condition in paragraph 10(1)(c) above is at any time fulfilled with respect to a tenancy, there shall be disregarded—
 (a) any period of not more than twenty-eight 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

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his only or principal home another dwelling-house which forms part of the building or, as the case may be, flat 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 only or principal home another dwelling-house in the building or, as the case may be, flat concerned, 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 six months beginning on that date, or
 - (ii) on the date on which that interest ceases to be so vested, or
 - (iii) on the date on which that interest becomes again vested in such an individual as is mentioned in paragraph 10(1)(c) or the condition in that paragraph becomes deemed to be fulfilled by virtue of paragraph 18(1) or paragraph 20 below,
- whichever is the earlier; and
- (c) any period of not more than two years beginning with the date on which the interest of the landlord under the tenancy becomes, and during which it remains, vested—
- (i) in trustees as such; or
 - (ii) by virtue of section 9 of the Administration of Estates Act 1925, in the Probate Judge, within the meaning of that Act.

- (2) Where the interest of the landlord under a tenancy becomes vested at law and in equity in two or more persons jointly, of whom at least one was an individual, sub-paragraph (1) above shall have effect subject to the following modifications—
- (a) in paragraph (a) for the words from “an individual” to “occupy” there shall be substituted “the joint landlords if, during that period none of them occupies”; and
 - (b) in paragraph (b) for the words “the individual concerned” there shall be substituted “any of the joint landlords who is an individual” and for the words “that individual” there shall be substituted “the joint landlords”.

- 18 (1) During any period when—
- (a) the interest of the landlord under the tenancy referred to in paragraph 10 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 or for two or more persons of whom at least one occupies as his only or principal home a dwelling-house which forms part of the building or, as the case may be, flat referred to in paragraph 10(1)(a),
- the condition in paragraph 10(1)(c) shall be deemed to be fulfilled and accordingly, no part of that period shall be disregarded by virtue of paragraph 17 above.
- (2) If a period during which the condition in paragraph 10(1)(c) is deemed to be fulfilled by virtue of sub-paragraph (1) above comes to an end on the death of a person who was in occupation of a dwelling-house as mentioned in paragraph (b) of that sub-paragraph, then, in determining whether that condition is at any time thereafter fulfilled, there shall be disregarded any period—
- (a) which begins on the date of the death;
 - (b) during which the interest of the landlord remains vested as mentioned in sub-paragraph (1)(a) above; and

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- (c) which ends at the expiry of the period of two years beginning on the date of the death or on any earlier date on which the condition in paragraph 10(1)(c) becomes again deemed to be fulfilled by virtue of sub-paragraph (1) above.
- 19 In any case where—
- (a) immediately before a tenancy comes to an end the condition in paragraph 10(1)(c) is deemed to be fulfilled by virtue of paragraph 18(1) above, and
- (b) on the coming to an end of that tenancy the trustees in whom the interest of the landlord is vested grant a new tenancy of the same or substantially the same dwelling-house to a person (alone or jointly with others) who was the tenant or one of the tenants under the previous tenancy,
- the condition in paragraph 10(1)(b) above shall be deemed to be fulfilled with respect to the new tenancy.
- 20 (1) The tenancy referred to in paragraph 10 above falls within this paragraph if the interest of the landlord under the tenancy becomes vested in the personal representatives of a deceased person acting in that capacity.
- (2) If the tenancy falls within this paragraph, the condition in paragraph 10(1)(c) shall be deemed to be fulfilled for any period, beginning with the date on which the interest becomes vested in the personal representatives and not exceeding two years, during which the interest of the landlord remains so vested.
- 21 Throughout any period which, by virtue of paragraph 17 or paragraph 18(2) above, falls to be disregarded for the purpose of determining whether the condition in paragraph 10(1)(c) 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 an assured tenancy.
- 22 For the purposes of paragraph 10 above, 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.