

---

*Status: Point in time view as at 01/10/1997.*

*Changes to legislation: Family Law Act 1996, Part II is up to date with all changes known to be in force on or before 07 July 2023. 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)*

---

## SCHEDULES

### SCHEDULE 7

#### TRANSFER OF CERTAIN TENANCIES ON DIVORCE ETC. OR ON SEPARATION OF COHABITANTS

##### PART II

##### ORDERS THAT MAY BE MADE

##### *References to entitlement to occupy*

- 6 References in this Part of this Schedule to a spouse or a cohabitant being entitled to occupy a dwelling-house by virtue of a relevant tenancy apply whether that entitlement is in his own right or jointly with the other spouse or cohabitant.

##### *Protected, secure or assured tenancy or assured agricultural occupancy*

- 7 (1) If a spouse or cohabitant is entitled to occupy the dwelling-house by virtue of a protected tenancy within the meaning of the <sup>M1</sup>Rent Act 1977, a secure tenancy within the meaning of the <sup>M2</sup>Housing Act 1985 [<sup>F1</sup>, an assured tenancy] or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 [<sup>F2</sup> or an introductory tenancy within the meaning of Chapter I of Part V of the Housing Act 1996], the court may by order direct that, as from such date as may be specified in the order, there shall, by virtue of the order and without further assurance, be transferred to, and vested in, the other spouse or cohabitant—
- (a) the estate or interest which the spouse or cohabitant so entitled had in the dwelling-house immediately before that date by virtue of the lease or agreement creating the tenancy and any assignment of that lease or agreement, with all rights, privileges and appurtenances attaching to that estate or interest but subject to all covenants, obligations, liabilities and incumbrances to which it is subject; and
  - (b) where the spouse or cohabitant so entitled is an assignee of such lease or agreement, the liability of that spouse or cohabitant under any covenant of indemnity by the assignee express or implied in the assignment of the lease or agreement to that spouse or cohabitant.
- (2) If an order is made under this paragraph, any liability or obligation to which the spouse or cohabitant so entitled is subject under any covenant having reference to the dwelling-house in the lease or agreement, being a liability or obligation falling due to be discharged or performed on or after the date so specified, shall not be enforceable against that spouse or cohabitant.

*Status: Point in time view as at 01/10/1997.*

*Changes to legislation: Family Law Act 1996, Part II is up to date with all changes known to be in force on or before 07 July 2023. 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)*

- (3) If the spouse so entitled is a successor within the meaning of Part IV of the <sup>M3</sup>Housing Act 1985, his former spouse or former cohabitant (or, if a separation order is in force, his spouse) shall be deemed also to be a successor within the meaning of that Part.
- [<sup>F3</sup>(3A) If the Spouse or cohabitant so entitled is a successor within the meaning of section 132 of the Housing Act 1996, his former spouse or former cohabitant (or, if a separation order is in force, his spouse) shall be deemed also to be a successor within the meaning of that section.]
- (4) If the spouse or cohabitant so entitled is for the purpose of section 17 of the <sup>M4</sup>Housing Act 1988 a successor in relation to the tenancy or occupancy, his former spouse or former cohabitant (or, if a separation order is in force, his spouse) is to be deemed to be a successor in relation to the tenancy or occupancy for the purposes of that section.
- (5) If the transfer under sub-paragraph (1) is of an assured agricultural occupancy, then, for the purposes of Chapter III of Part I of the Housing Act 1988—
- (a) the agricultural worker condition is fulfilled with respect to the dwelling-house while the spouse or cohabitant to whom the assured agricultural occupancy is transferred continues to be the occupier under that occupancy, and
  - (b) that condition is to be treated as so fulfilled by virtue of the same paragraph of Schedule 3 to the Housing Act 1988 as was applicable before the transfer.
- (6) In this paragraph, references to a separation order being in force include references to there being a judicial separation in force.

#### Textual Amendments

- F1** Words in *Sch. 7 para. 7(1)* substituted (12.2.1997) by *S.I. 1997/74, art. 2, Sch. para. 10(b)(ii)*
- F2** Words in *Sch. 7 para. 7(1)* inserted (12.2.1997) by *S.I. 1997/74, art. 2, Sch. para. 10(b)(ii)*
- F3** *Sch. 7 para. 7(3A)* inserted (12.2.1997) by *S.I. 1997/74, art. 2, Sch. para. 10(b)(iii)*

#### Marginal Citations

- M1** 1977 c. 42.
- M2** 1985 c. 68.
- M3** 1985 c. 68.
- M4** 1988 c. 50.

#### *Statutory tenancy within the meaning of the Rent Act 1977*

- 8 (1) This paragraph applies if the spouse or cohabitant is entitled to occupy the dwelling-house by virtue of a statutory tenancy within the meaning of the <sup>M5</sup>Rent Act 1977.
- (2) The court may by order direct that, as from the date specified in the order—
- (a) that spouse or cohabitant is to cease to be entitled to occupy the dwelling-house; and
  - (b) the other spouse or cohabitant is to be deemed to be the tenant or, as the case may be, the sole tenant under that statutory tenancy.
- (3) The question whether the provisions of paragraphs 1 to 3, or (as the case may be) paragraphs 5 to 7 of Schedule 1 to the Rent Act 1977, as to the succession by the

*Status: Point in time view as at 01/10/1997.*

*Changes to legislation: Family Law Act 1996, Part II is up to date with all changes known to be in force on or before 07 July 2023. 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)*

surviving spouse of a deceased tenant, or by a member of the deceased tenant's family, to the right to retain possession are capable of having effect in the event of the death of the person deemed by an order under this paragraph to be the tenant or sole tenant under the statutory tenancy is to be determined according as those provisions have or have not already had effect in relation to the statutory tenancy.

---

**Marginal Citations**

**M5** 1977 c. 42.

*Statutory tenancy within the meaning of the Rent (Agriculture) Act 1976*

- 9 (1) This paragraph applies if the spouse or cohabitant is entitled to occupy the dwelling-house by virtue of a statutory tenancy within the meaning of the <sup>M6</sup>Rent (Agriculture) Act 1976.
- (2) The court may by order direct that, as from such date as may be specified in the order—
- (a) that spouse or cohabitant is to cease to be entitled to occupy the dwelling-house; and
  - (b) the other spouse or cohabitant is to be deemed to be the tenant or, as the case may be, the sole tenant under that statutory tenancy.
- (3) A spouse or cohabitant who is deemed under this paragraph to be the tenant under a statutory tenancy is (within the meaning of that Act) a statutory tenant in his own right, or a statutory tenant by succession, according as the other spouse or cohabitant was a statutory tenant in his own right or a statutory tenant by succession.

---

**Marginal Citations**

**M6** 1976 c. 80.

**Status:**

Point in time view as at 01/10/1997.

**Changes to legislation:**

Family Law Act 1996, Part II is up to date with all changes known to be in force on or before 07 July 2023. 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.