

Status: Point in time view as at 05/12/2005.

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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 ^[F1], a civil partner] 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 ^[F2], civil partner] or cohabitant.

Textual Amendments

- F1** Words in Sch. 7 para. 6 inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(7)(a); S.I. 2005/3175, art. 2(1), Sch. 1
- F2** Words in Sch. 7 para. 6 inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(7)(b); S.I. 2005/3175, art. 2(1), Sch. 1

Protected, secure or assured tenancy or assured agricultural occupancy

- 7 (1) If a spouse ^[F3], civil partner] or cohabitant is entitled to occupy the dwelling-house by virtue of a protected tenancy within the meaning of the ^{M1}Rent Act 1977, a secure tenancy within the meaning of the ^{M2}Housing Act 1985 ^[F4], an assured tenancy] or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 ^[F5] 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 ^[F3], civil partner] or cohabitant—
- (a) the estate or interest which the spouse ^[F3], civil partner] 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 ^[F3], civil partner] or cohabitant so entitled is an assignee of such lease or agreement, the liability of that spouse ^[F3], civil partner] or cohabitant under any covenant of indemnity by the assignee express or

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implied in the assignment of the lease or agreement to that spouse ^{F3}, civil partner] or cohabitant.

- (2) If an order is made under this paragraph, any liability or obligation to which the spouse ^{F3}, civil partner] 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 ^{F3}, civil partner] or cohabitant.
- ^{F6}(3) If the spouse, civil partner or cohabitant so entitled is a successor within the meaning of Part 4 of the Housing Act 1985—
- (a) his former spouse (or, in the case of judicial separation, his spouse),
 - (b) his former civil partner (or, if a separation order is in force, his civil partner),
or
 - (c) his former cohabitant,
- is to be deemed also to be a successor within the meaning of that Part.
- (3A) If the spouse, civil partner or cohabitant so entitled is a successor within the meaning of section 132 of the Housing Act 1996—
- (a) his former spouse (or, in the case of judicial separation, his spouse),
 - (b) his former civil partner (or, if a separation order is in force, his civil partner),
or
 - (c) his former cohabitant,
- is to be deemed also to be a successor within the meaning of that section.
- (4) If the spouse, civil partner or cohabitant so entitled is for the purposes of section 17 of the Housing Act 1988 a successor in relation to the tenancy or occupancy—
- (a) his former spouse (or, in the case of judicial separation, his spouse),
 - (b) his former civil partner (or, if a separation order is in force, his civil partner),
or
 - (c) his former cohabitant,
- 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 ^{F7}, civil partner] 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) ^{F8}

Textual Amendments

- F3** Words in Sch. 7 para. 7(1)(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(8); S.I. 2005/3175, art. 2(1), Sch. 1
- F4** Words in Sch. 7 para. 7(1) substituted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 10(b)(ii)
- F5** Words in Sch. 7 para. 7(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 10(b)(ii)

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- F6** Sch. 7 para. 7(3)(3A)(4) substituted (5.12.2005) for Sch. 7 para. 7(3)(4) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(9)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F7** Words in Sch. 7 para. 7(5)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(10)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F8** Sch. 7 para. 7(6) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 261(4), 263, Sch. 9 para. 16(11), **Sch. 30**; S.I. 2005/3175, **art. 2(1)(6)**, Sch. 1

Marginal Citations

- M1** 1977 c. 42.
M2 1985 c. 68.

Statutory tenancy within the meaning of the Rent Act 1977

- 8 (1) This paragraph applies if the spouse [^{F9}, civil partner] or cohabitant is entitled to occupy the dwelling-house by virtue of a statutory tenancy within the meaning of the ^{M3}Rent Act 1977.
- (2) The court may by order direct that, as from the date specified in the order—
- (a) that spouse [^{F9}, civil partner] or cohabitant is to cease to be entitled to occupy the dwelling-house; and
- (b) the other spouse [^{F9}, civil partner] 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 surviving spouse [^{F10} or surviving civil partner] 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.

Textual Amendments

- F9** Words in Sch. 7 para. 8(1)(2)(a)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(12)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F10** Words in Sch. 7 para. 8(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(13)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Marginal Citations

- M3** 1977 c. 42.

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

- 9 (1) This paragraph applies if the spouse [^{F11}, civil partner] or cohabitant is entitled to occupy the dwelling-house by virtue of a statutory tenancy within the meaning of the ^{M4}Rent (Agriculture) Act 1976.
- (2) The court may by order direct that, as from such date as may be specified in the order—

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- (a) that spouse [^{F12}, civil partner] or cohabitant is to cease to be entitled to occupy the dwelling-house; and
- (b) the other spouse [^{F12}, civil partner] 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 [^{F13}, civil partner] 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 [^{F13}, civil partner] or cohabitant was a statutory tenant in his own right or a statutory tenant by succession.

Textual Amendments

- F11** Words in Sch. 7 para. 9(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 16\(14\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F12** Words in Sch. 7 para. 9(2)(a)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 16\(14\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F13** Words in Sch. 7 para. 9(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 16\(14\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

Marginal Citations

- M4** 1976 c. 80.

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