

SCHEDULES

SCHEDULE 1

Section 14

DEMOTED TENANCIES

- 1 In the Housing Act 1996 (c. 52) after section 143 the following sections are inserted as Chapter 1A of Part 5—

“CHAPTER 1A

DEMOTED TENANCIES

General provisions

143A Demoted tenancies

- (1) This section applies to a periodic tenancy of a dwelling-house if each of the following conditions is satisfied.
- (2) The first condition is that the landlord is either a local housing authority or a housing action trust.
- (3) The second condition is that the tenant condition in section 81 of the Housing Act 1985 is satisfied.
- (4) The third condition is that the tenancy is created by virtue of a demotion order under section 82A of that Act.
- (5) In this Chapter—
 - (a) a tenancy to which this section applies is referred to as a demoted tenancy;
 - (b) references to demoted tenants must be construed accordingly.

143B Duration of demoted tenancy

- (1) A demoted tenancy becomes a secure tenancy at the end of the period of one year (the demotion period) starting with the day the demotion order takes effect; but this is subject to subsections (2) to (5).
- (2) A tenancy ceases to be a demoted tenancy if any of the following paragraphs applies—
 - (a) either of the first or second conditions in section 143A ceases to be satisfied;
 - (b) the demotion order is quashed;
 - (c) the tenant dies and no one is entitled to succeed to the tenancy.

Status: This is the original version (as it was originally enacted).

- (3) If at any time before the end of the demotion period the landlord serves a notice of proceedings for possession of the dwelling-house subsection (4) applies.
- (4) The tenancy continues as a demoted tenancy until the end of the demotion period or (if later) until any of the following occurs—
 - (a) the notice of proceedings is withdrawn by the landlord;
 - (b) the proceedings are determined in favour of the tenant;
 - (c) the period of 6 months beginning with the date on which the notice is served ends and no proceedings for possession have been brought.
- (5) A tenancy does not come to an end merely because it ceases to be a demoted tenancy.

143C Change of landlord

- (1) A tenancy continues to be a demoted tenancy for the duration of the demotion period if—
 - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
 - (b) during the demotion period the interest of the landlord transfers to another person who is a local housing authority or a housing action trust.
- (2) Subsections (3) and (4) apply if—
 - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
 - (b) during the demotion period the interest of the landlord transfers to a person who is not such a body.
- (3) If the new landlord is a registered social landlord or a person who does not satisfy the landlord condition the tenancy becomes an assured shorthold tenancy.
- (4) If the new landlord is not a registered social landlord and does satisfy the landlord condition the tenancy becomes a secure tenancy.
- (5) The landlord condition must be construed in accordance with section 80 of the Housing Act 1985.

Proceedings for possession

143D Proceedings for possession

- (1) The landlord may only bring a demoted tenancy to an end by obtaining an order of the court for possession of the dwelling-house.
- (2) The court must make an order for possession unless it thinks that the procedure under sections 143E and 143F has not been followed.
- (3) If the court makes such an order the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

143E Notice of proceedings for possession

- (1) Proceedings for possession of a dwelling-house let under a demoted tenancy must not be brought unless the landlord has served on the tenant a notice of proceedings under this section.
- (2) The notice must—
 - (a) state that the court will be asked to make an order for the possession of the dwelling-house;
 - (b) set out the reasons for the landlord’s decision to apply for the order;
 - (c) specify the date after which proceedings for the possession of the dwelling-house may be begun;
 - (d) inform the tenant of his right to request a review of the landlord’s decision and of the time within which the request must be made.
- (3) The date specified under subsection (2)(c) must not be earlier than the date on which the tenancy could (apart from this Chapter) be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.
- (4) The court must not entertain proceedings begun on or before the date specified under subsection (2)(c).
- (5) The notice must also inform the tenant that if he needs help or advice—
 - (a) about the notice, or
 - (b) about what to do about the notice,he must take the notice immediately to a Citizen’s Advice Bureau, a housing aid centre, a law centre or a solicitor.

143F Review of decision to seek possession

- (1) Before the end of the period of 14 days beginning with the date of service of a notice for possession of a dwelling-house let under a demoted tenancy the tenant may request the landlord to review its decision to seek an order for possession.
- (2) If a request is made in accordance with subsection (1) the landlord must review the decision.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with a review under this section.
- (4) The regulations may include provision—
 - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision;
 - (b) as to the circumstances in which the tenant is entitled to an oral hearing, and whether and by whom he may be represented at the hearing.
- (5) The landlord must notify the tenant—
 - (a) of the decision on the review;
 - (b) of the reasons for the decision.

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- (6) The review must be carried out and notice given under subsection (5) before the date specified in the notice of proceedings as the date after which proceedings for possession of the dwelling-house may be begun.

143G Effect of proceedings for possession

- (1) This section applies if the landlord has begun proceedings for the possession of a dwelling-house let under a demoted tenancy and—
- (a) the demotion period ends, or
 - (b) any of paragraphs (a) to (c) of section 143B(2) applies (circumstances in which a tenancy ceases to be a demoted tenancy).
- (2) If any of paragraphs (a) to (c) of section 143B(2) applies the tenancy ceases to be a demoted tenancy but the landlord (or the new landlord as the case may be) may continue the proceedings.
- (3) Subsection (4) applies if in accordance with subsection (2) a tenancy ceases to be a demoted tenancy and becomes a secure tenancy.
- (4) The tenant is not entitled to exercise the right to buy unless—
- (a) the proceedings are finally determined, and
 - (b) he is not required to give up possession of the dwelling-house.
- (5) The proceedings must be treated as finally determined if—
- (a) they are withdrawn;
 - (b) any appeal is abandoned;
 - (c) the time for appealing expires without an appeal being brought.

Succession

143H Succession to demoted tenancy

- (1) This section applies if the tenant under a demoted tenancy dies.
- (2) If the tenant was a successor, the tenancy—
- (a) ceases to be a demoted tenancy, but
 - (b) does not become a secure tenancy.
- (3) In any other case a person is qualified to succeed the tenant if—
- (a) he occupies the dwelling-house as his only or principal home at the time of the tenant's death,
 - (b) he is a member of the tenant's family, and
 - (c) he has resided with the tenant throughout the period of 12 months ending with the tenant's death.
- (4) If only one person is qualified to succeed under subsection (3) the tenancy vests in him by virtue of this section.
- (5) If there is more than one such person the tenancy vests by virtue of this section in the person preferred in accordance with the following rules—

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- (a) the tenant's spouse or (if the tenant has no spouse) the person mentioned in section 143P(1)(b) is to be preferred to another member of the tenant's family;
- (b) if there are two or more other members of the tenant's family the person preferred may be agreed between them or (if there is no such agreement) selected by the landlord.

143I No successor tenant: termination

- (1) This section applies if the demoted tenant dies and no person is qualified to succeed to the tenancy as mentioned in section 143H(3).
- (2) The tenancy ceases to be a demoted tenancy if either subsection (3) or (4) applies.
- (3) This subsection applies if the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate unless the vesting or other disposal is in pursuance of an order under—
 - (a) section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
 - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc);
 - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (4) This subsection applies if it is known that when the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate it will not be in pursuance of an order mentioned in subsection (3).
- (5) A tenancy which ceases to be a demoted tenancy by virtue of this section cannot subsequently become a secure tenancy.

143J Successor tenants

- (1) This section applies for the purpose of sections 143H and 143I.
- (2) A person is a successor to a secure tenancy which is terminated by a demotion order if any of subsections (3) to (6) applies to him.
- (3) The tenancy vested in him—
 - (a) by virtue of section 89 of the Housing Act 1985 or section 133 of this Act;
 - (b) under the will or intestacy of the preceding tenant.
- (4) The tenancy arose by virtue of section 86 of the Housing Act 1985 and the original fixed term was granted—
 - (a) to another person, or
 - (b) to him jointly with another person.
- (5) He became the tenant on the tenancy being assigned to him unless—
 - (a) the tenancy was assigned in proceedings under section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1)

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of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc), and

- (b) neither he nor the other party to the marriage was a successor.
- (6) He became the tenant on assignment under section 92 of the Housing Act 1985 if he himself was a successor to the tenancy which he assigned in exchange.
- (7) A person is the successor to a demoted tenancy if the tenancy vested in him by virtue of section 143H(4) or (5).
- (8) A person is the successor to a joint tenancy if he has become the sole tenant.

Assignment

143K Restriction on assignment

- (1) A demoted tenancy is not capable of being assigned except as mentioned in subsection (2).
- (2) The exceptions are assignment in pursuance of an order made under—
 - (a) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
 - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc.);
 - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).

Repairs

143L Right to carry out repairs

The Secretary of State may by regulations under section 96 of the Housing Act 1985 (secure tenants: right to carry out repairs) apply to demoted tenants any provision made under that section in relation to secure tenants.

Provision of information

143M Provision of information

- (1) This section applies to a local housing authority or a housing action trust if it is the landlord of a demoted tenancy.
- (2) The landlord must from time to time publish information about the demoted tenancy in such form as it thinks best suited to explain in simple terms and so far as it considers appropriate the effect of—
 - (a) the express terms of the demoted tenancy;
 - (b) the provisions of this Chapter;
 - (c) the provisions of sections 11 to 16 of the Landlord and Tenant Act 1985 (landlord's repairing obligations).

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- (3) The landlord must ensure that information published under subsection (2) is, so far as is reasonably practicable, kept up to date.
- (4) The landlord must supply the tenant with—
 - (a) a copy of the information published under subsection (2);
 - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law.
- (5) The statement required by subsection (4)(b) must be supplied on the grant of the tenancy or as soon as practicable afterwards.

Supplementary

143N Jurisdiction of county court

- (1) A county court has jurisdiction—
 - (a) to determine questions arising under this Chapter;
 - (b) to entertain proceedings brought under this Chapter;
 - (c) to determine claims (for whatever amount) in connection with a demoted tenancy.
- (2) The jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of section 143M(4)(b) (written statement of certain terms of tenancy) is accurate.
- (3) For the purposes of subsection (2) it is immaterial that no relief other than a declaration is sought.
- (4) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court he is not entitled to recover any costs.
- (5) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purposes of giving effect to this section.
- (6) The rules and directions may provide—
 - (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this section;
 - (b) for the conduct of proceedings in private.
- (7) The power to make rules must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

143O Meaning of dwelling house

- (1) For the purposes of this Chapter a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house must be treated for the purposes of this Chapter as part of the dwelling-house unless the land is agricultural land which would not be treated as part of a dwelling-house for the purposes of Part 4 of the Housing Act 1985.

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143P Members of a person’s family

- (1) For the purposes of this Chapter a person is a member of another’s family if—
 - (a) he is the spouse of that person;
 - (b) he and that person live together as a couple in an enduring family relationship, but he does not fall within paragraph (c);
 - (c) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b) it is immaterial that two persons living together in an enduring family relationship are of the same sex.
- (3) For the purposes of subsection (1)(c)—
 - (a) a relationship by marriage must be treated as a relationship by blood;
 - (b) a relationship of the half-blood must be treated as a relationship of the whole blood;
 - (c) a stepchild of a person must be treated as his child.”

- 2 (1) The Housing Act 1985 (c. 68) is amended as follows.
- (2) In section 105 (requirement to consult secure tenants on certain housing management matters) after subsection (6) there is inserted the following subsection—

“(7) For the purposes of this section—

 - (a) secure tenants include demoted tenants within the meaning of section 143A of the Housing Act 1996;
 - (b) secure tenancies include demoted tenancies within the meaning of that section.”
- (3) In section 171B (extent of preserved right to buy) after subsection (1) there is inserted the following subsection—

“(1A) A person to whom this section applies ceases to have the preserved right to buy if the tenancy of a relevant dwelling-house becomes a demoted tenancy by virtue of a demotion order under section 6A of the Housing Act 1988.”
- (4) In Schedule 1 (tenancies which are not secure tenancies) after paragraph 1A (introductory tenancies) there is inserted the following paragraph—

“1B A tenancy is not a secure tenancy if it is a demoted tenancy within the meaning of section 143A of the Housing Act 1996.”
- (5) In Schedule 4 (qualifying period for right to buy and discount) after paragraph 9 (the tenant condition) there is inserted the following paragraph—

“9A The tenant condition is not met during any period when a tenancy is a demoted tenancy by virtue of section 20B of the Housing Act 1988 or section 143A of the Housing Act 1996.”

SCHEDULE 2

Section 88

CURFEW ORDERS AND SUPERVISION ORDERS

Interpretation

- 1 In this Schedule “the 2000 Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

Curfew orders

- 2 (1) Section 37 of the 2000 Act (curfew orders) is amended as follows.
- (2) Subsection (4) (which limits to three months the duration of a curfew order made in respect of a person aged under 16 on conviction) is omitted.
- (3) For subsection (12) there is substituted—
- “(12) In this Act, “responsible officer”, in relation to an offender subject to a curfew order, means—
- (a) where the offender is also subject to a supervision order, the person who is the supervisor in relation to the supervision order, and
- (b) in any other case, the person who is responsible for monitoring the offender’s whereabouts during the curfew periods specified in the order.”

Supervision orders

- 3 After section 64 of the 2000 Act there is inserted—

“64A Supervision orders and curfew orders

Nothing in this Chapter prevents a court which makes a supervision order in respect of an offender from also making a curfew order in respect of him.”

- 4 (1) Schedule 6 to the 2000 Act (requirements which may be included in supervision orders) is amended as follows.
- (2) In paragraph 2(5) (total number of days during which offender may be required to comply with directions of supervisor not to exceed 90), for “90” there is substituted “180”.
- (3) In paragraph 3 (requirements as to activities, reparation, night restrictions etc)—
- (a) sub-paragraph (2)(e) (night restriction) is omitted, and
- (b) in sub-paragraph (3) (total number of days in respect of which an offender may be subject to requirements imposed by virtue of any of sub-paragraph (2)(a) to (e) not to exceed 90)—
- (i) for the words “, (d) or (e)” there is substituted “or (d)”, and
- (ii) for “90” there is substituted “180”.
- (4) Paragraph 4 (night restrictions) is omitted.
- (5) After paragraph 5 there is inserted—

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“Requirement to live for specified period with local authority foster parent

- 5A (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, a supervision order may impose a requirement (“a foster parent residence requirement”) that the offender shall live for a specified period with a local authority foster parent.
- (2) The conditions are that—
- (a) the offence is punishable with imprisonment in the case of an offender aged 18 or over;
 - (b) the offence, or the combination of the offence and one or more offences associated with it, was so serious that a custodial sentence would normally be appropriate (or, where the offender is aged 10 or 11, would normally be appropriate if the offender were aged 12 or over); and
 - (c) the court is satisfied that—
 - (i) the behaviour which constituted the offence was due to a significant extent to the circumstances in which the offender was living, and
 - (ii) the imposition of a foster parent residence requirement will assist in his rehabilitation.
- (3) A foster parent residence requirement shall designate the local authority who are to place the offender with a local authority foster parent under section 23(2)(a) of the Children Act 1989, and that authority shall be the authority in whose area the offender resides.
- (4) A court shall not impose a foster parent residence requirement unless—
- (a) the court has been notified by the Secretary of State that arrangements for implementing such a requirement are available in the area of the designated authority;
 - (b) the notice has not been withdrawn; and
 - (c) the court has consulted the designated authority.
- (5) Subject to paragraph 5(2A) of Schedule 7 to this Act, the maximum period which may be specified in a foster parent residence requirement is twelve months.
- (6) A court shall not impose a foster parent residence requirement in respect of an offender who is not legally represented at the relevant time in that court unless—
- (a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of the proceedings but the right was withdrawn because of his conduct; or
 - (b) he has been informed of his right to apply for such representation for the purposes of the proceedings and has had opportunity to do so, but nevertheless refused or failed to apply.
- (7) In sub-paragraph (6) above—
- (a) “the relevant time” means the time when the court is considering whether or not to impose the requirement, and

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- (b) “the proceedings” means—
 - (i) the whole proceedings, or
 - (ii) the part of the proceedings relating to the imposition of the requirement.
- (8) A supervision order imposing a foster parent residence requirement may also impose any of the requirements mentioned in paragraphs 2, 3, 6 and 7 of this Schedule.
- (9) If at any time while a supervision order imposing a foster parent residence requirement is in force, the supervisor notifies the offender—
 - (a) that no suitable local authority foster parent is available, and
 - (b) that the supervisor has applied or proposes to apply under paragraph 5 of Schedule 7 for the variation or revocation of the order,the foster parent residence requirement shall, until the determination of the application, be taken to require the offender to live in local authority accommodation (as defined by section 163 of this Act).
- (10) This paragraph does not affect the power of a local authority to place with a local authority foster parent an offender to whom a local authority residence requirement under paragraph 5 above relates.
- (11) In this paragraph “local authority foster parent” has the same meaning as in the Children Act 1989.”

Consequential amendments

- 5 In section 21 of the Children Act 1989 (c. 41) (provision of accommodation for children in police protection or detention or on remand, etc.) in subsection (2)(c) (ii) after “2000” there is inserted “or a foster parent residence requirement under paragraph 5A of that Schedule”.
- 6 (1) Schedule 7 to the 2000 Act (breach, revocation and amendment of supervision orders) is amended as follows.
 - (2) In paragraph 2 (breach of requirement of supervision order)—
 - (a) in sub-paragraph (1), after “5” there is inserted “, 5A”,
 - (b) in sub-paragraph (2)(a)(ii) after “subject to” there is inserted “sub-paragraph (2A) below and”, and
 - (c) after sub-paragraph (2) there is inserted—
 - “(2A) The court may not make a curfew order under sub-paragraph (2) (a)(ii) above in respect of an offender who is already subject to a curfew order.”
 - (3) In paragraph 5 (revocation and amendment of supervision order)—
 - (a) after sub-paragraph (2) there is inserted—
 - “(2A) In relation to a supervision order imposing a foster parent residence requirement under paragraph 5A of Schedule 6 to this Act, the power conferred by sub-paragraph (1)(b)(ii) above includes power to extend the period specified in the requirement

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- to a period of not more than 18 months beginning with the day on which the requirement first had effect.”, and
- (b) sub-paragraph (3)(b) and the word “or” immediately preceding it are omitted.

SCHEDULE 3

Section 92

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Firearms Act 1968 (c. 27)	Section 22(5). In section 23(2) the words “or (5)”. In Part 1 of Schedule 6, the entry relating to section 22(5).
Prosecution of Offences Act 1985 (c. 23)	In section 3(2), the word “and” after paragraph (f).
Firearms (Amendment) Act 1988 (c. 45)	In section 1(4), the word “or” at the end of paragraph (a).
Criminal Justice and Public Order Act 1994 (c. 33)	In section 63(2), “in the open air”. In section 68(1), “in the open air” in both places. In section 69(1), “in the open air” in both places.
Noise Act 1996 (c. 37)	In section 2(7) the words from “and accordingly” to the end.
Housing Act 1996 (c. 52)	Sections 152 and 153. In section 158— (a) in subsection (1), the entries relating to “child”, “harm”, “health” and “ill-treatment”; (b) subsection (2).
Crime and Disorder Act 1998 (c. 37)	In section 1(1A), the word “or” after paragraph (c).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	Section 37(4). In Schedule 6— (a) in paragraph 3(2), the words “and paragraph 4 below” and paragraph (e), and (b) paragraph 4. In Schedule 7, paragraph 5(3)(b) and the word “or” immediately preceding it.

Status: This is the original version (as it was originally enacted).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Police Reform Act 2002 (c. 30)	In Schedule 4, the word “and” at the end of paragraph 1(2)(c). In Schedule 5, the word “and” at the end of paragraph 1(2)(b).
