# SCHEDULES

## SCHEDULE 3

Section 20

### EXCLUDED RESIDENTIAL TENANCY AGREEMENTS

*Social housing*

1 (1) An agreement that grants a right of occupation in social housing.

(2) "Social housing" means accommodation provided to a person by virtue of a relevant provision.

(3) "Relevant provision" means a provision of—

(a) in relation to England and Wales—

(i) Part 2 of the Housing Act 1985, or

(ii) Part 6 or 7 of the Housing Act 1996;

(b) in relation to Scotland, Part 1 or 2 of the Housing (Scotland) Act 1987;

(c) in relation to Northern Ireland—

(i) Chapter 4 of Part 2 of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)), or

(ii) Part 2 of the Housing (Northern Ireland) Order 1988 (S.I. 1988/1990 (N.I. 23)).

(4) Accommodation provided to a person by virtue of a relevant provision includes accommodation provided in pursuance of arrangements made under any such provision.

2 (1) This paragraph applies for the purposes of paragraph 1.

(2) An allocation of housing accommodation by a local housing authority in England to a person who is already—

(a) a secure or introductory tenant, or

(b) an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord,

is to be treated as an allocation of housing accommodation by virtue of Part 6 of the Housing Act 1996 (and accordingly section 159(4A) of that Act is to be ignored).

(3) An allocation of housing accommodation that falls within a case specified in, or prescribed under, section 160 of the Housing Act 1996 (cases where provisions about allocation under Part 6 of that Act do not apply) is to be treated as an allocation of housing accommodation by virtue of Part 6 of that Act (and accordingly that section is to be ignored).

(4) An allocation of housing accommodation by virtue of Part 1 of the Housing (Scotland) Act 1987 is to be treated as provided by virtue of a relevant provision only if it is provided by a local authority within the meaning of that Act (or in pursuance of arrangements made under or for the purposes of that Part with a local authority).

(5) Accommodation provided to a person in Northern Ireland by a registered housing association is to be treated as provided to the person by virtue of a relevant provision.

(6) Terms used in sub-paragraphs (2) and (3) have the same meanings as in Part 6 of the Housing Act 1996.

(7) In sub-paragraph (5) "registered housing association" means a housing association, within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)), that is registered in the register of housing associations maintained under Article 14 of that Order.

*Care homes*

3 (1) An agreement that grants a right of occupation in a care home.

(2) "Care home" means—

(a) in relation to England and Wales, an establishment that is a care home for the purposes of the Care Standards Act 2000;

(b) in relation to Scotland, accommodation that is provided as a care home service within the meaning of Part 5 of the Public Services Reform (Scotland) Act 2010;

(c) in relation to Northern Ireland, an establishment that is a residential care home, or a nursing home, for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)).

*Hospitals and hospices*

4 (1) An agreement that grants a right of occupation of accommodation in a hospital or hospice.

(2) "Hospital"—

(a) in relation to England, has the meaning given in section 275 of the National Health Service Act 2006;

(b) in relation to Wales, has the meaning given in section 206 of the National Health Service (Wales) Act 2006;

(c) in relation to Scotland, has the meaning given in section 108 of the National Health Service (Scotland) Act 1978;

(d) in relation to Northern Ireland, has the meaning given in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).

(3) "Hospice" means an establishment other than a hospital whose primary function is the provision of palliative care to persons resident there who are suffering from a progressive disease in its final stages.

*Other accommodation relating to healthcare provision*

5 (1) An agreement—

(a) under which accommodation is provided to a person as a result of a duty imposed on a relevant NHS body by an enactment, and

(b) which is not excluded by another provision of this Schedule.

(2) "Relevant NHS body" means—

(a) in relation to England—

(i) a clinical commissioning group, or

(ii) the National Health Service Commissioning Board;

(b) in relation to Wales, a local health board;

(c) in relation to Scotland, a health board constituted by order made under section 2 of the National Health Service (Scotland) Act 1978;

(d) in relation to Northern Ireland, a Health and Social Services trust.

*Hostels and refuges*

6 (1) An agreement that grants a right of occupation of accommodation in a hostel or refuge.

(2) "Hostel" means a building which satisfies the following two conditions.

(3) The first condition is that the building is used for providing to persons generally, or to a class of persons—

(a) residential accommodation otherwise than in separate and self-contained premises, and

(b) board or facilities for the preparation of food adequate to the needs of those persons (or both).

(4) The second condition is that any of the following applies in relation to the building—

(a) it is managed by a registered housing association;

(b) it is not operated on a commercial basis and its costs of operation are provided wholly or in part by a government department or agency, or by a local authority;

(c) it is managed by a voluntary organisation or charity.

(5) "Refuge" means a building which satisfies the second condition in sub-paragraph (4) and is used wholly or mainly for providing accommodation to persons who have been subject to any incident, or pattern of incidents, of—

(a) controlling, coercive or threatening behaviour,

(b) physical violence,

(c) abuse of any other description (whether physical or mental in nature), or

(d) threats of any such violence or abuse.

(6) In this paragraph—

"government department" includes—

(a) any part of the Scottish Administration;

(b) a Northern Ireland department;

(c) the Welsh Assembly Government;

(d) any body or authority exercising statutory functions on behalf of the Crown;

"registered housing association" means—

(a) a private registered provider of social housing;

(b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 or section 165 of the Housing (Scotland) Act 2010;

(c) a housing association which is registered in a register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));

"voluntary organisation" means a body, other than a public or local authority, whose activities are not carried on for profit.

*Accommodation from or involving local authorities*

7 (1) An agreement—

(a) under which accommodation is provided to a person as a result of a duty or relevant power that is imposed or conferred on a local authority by an enactment (whether or not provided by the local authority), and

(b) which is not excluded by another provision of this Schedule.

(2) "Relevant power" means a power that is exercised for, or in connection with, a purpose of providing accommodation to a person who is homeless or is threatened with homelessness.

(3) In sub-paragraph (2) the reference to a person who is homeless or is threatened with homelessness is to be read in accordance with—

(a) in relation to England and Wales, section 175 of the Housing Act 1996;

(b) in relation to Scotland, section 24 of the Housing (Scotland) Act 1987;

(c) in relation to Northern Ireland, Article 3 of the Housing (Northern Ireland) Order 1988 (S.I. 1988/1990 (N.I. 23)).

*Accommodation provided by virtue of immigration provisions*

8 An agreement granting a right of occupation of accommodation that is provided to an individual by virtue of any of the following provisions of the Immigration and Asylum Act 1999—

(a) section 4 (provision of accommodation to persons granted temporary admission etc);

(b) section 95 (provision of support to asylum seekers etc);

(c) section 98 (provision of temporary support to asylum seekers etc).

*Mobile homes*

9 An agreement to which the Mobile Homes Act 1983 applies.

*Tied accommodation*

10 (1) An agreement that grants a right of occupation of tied accommodation.

(2) "Tied accommodation" means accommodation that is provided—

(a) by an employer to an employee in connection with a contract of employment, or

(b) by a body providing training in a trade, profession or vocation to an individual in connection with that training.

(3) In this paragraph "employer" and "employee" have the same meanings as in the Employment Rights Act 1996 (see section 230 of that Act).

*Student accommodation*

11 (1) An agreement that grants a right of occupation in a building which—
(a) is used wholly or mainly for the accommodation of students, and
(b) satisfies either of the following conditions.

(2) The first condition is that the building is owned or managed by any of the following—
(a) an institution within the meaning of paragraph 5 of Schedule 1 to the Local Government Finance Act 1992;
(b) a body that is specified in regulations made under Article 42(2A) of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28));
(c) a body established for charitable purposes only.

(3) The second condition is that the building is a hall of residence.

(4) In this paragraph and paragraph 12 "student"—
(a) in relation to England and Wales or Scotland, has the same meaning as in paragraph 4 of Schedule 1 to the Local Government Finance Act 1992;
(b) in relation to Northern Ireland, means a person who satisfies such conditions as to education or training as may be specified in regulations made under Article 42(2A) of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)).

12 An agreement under which accommodation is provided to a student who has been nominated to occupy it by an institution or body of the kind mentioned in paragraph 11(2).

*Long leases*

13 (1) An agreement that—
(a) is, or is for, a long lease, or
(b) grants a right of occupation for a term of 7 years or more.

(2) "Long lease" means—
(a) in relation to England and Wales, a lease which is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 or which, in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be such a lease if the tenant's total share (within the meaning given by that section) were 100 per cent;
(b) in relation to Scotland, has the meaning given by section 9(2) of the Land Registration (Scotland) Act 2012.

(3) An agreement does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

*Interpretation*

14 (1) This paragraph applies for the purposes of this Schedule.

(2) "Building" includes a part of a building.

(3) "Enactment" includes—

(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

(c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

(d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

(4) "Local authority" means—

(a) in relation to England—

(i) a county, district or parish council in England,

(ii) a London borough council,

(iii) the Common Council of the City of London in its capacity as a local authority, or

(iv) the Council of the Isles of Scilly;

(b) in relation to Wales, any county, county borough or community council in Wales;

(c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(d) in relation to Northern Ireland, a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)).