SCHEDULES

SCHEDULE 2

FURTHER PROVISION ABOUT SOCIAL HOUSING RENTS

PART 1

PROVISION ABOUT LEVELS OF RENTS

Modifications etc. (not altering text)

C1 Sch. 2 Pt. 1 modified by S.I. 2016/390, regs. 11A(1), 11B (as inserted (1.4.2017) by The Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2017 (S.I. 2017/91), regs. 1(3), **6**)

C2 Sch. 2 Pt. 1 excluded (1.4.2016) by The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 (S.I. 2016/390), **regs. 1(1)**, 4

C3 Sch. 2 Pt. 1 modified (1.4.2016) by The Social Housing Rents (Exceptions and Miscellaneous Provisions) Regulations 2016 (S.I. 2016/390), **regs. 1(1)**, 10(1), 11, 12(1), 13 (with regs. 10(2), 12(2)) (as amended (1.3.2017) by S.I. 2017/91, regs. 1(2), 8(5) and (1.4.2017) by S.I. 2017/91, regs. 1(3), **7**)

Tenancy of existing social housing

1 (1) This paragraph applies in relation to a tenant of social housing in England if—

(a) the tenancy begins after the beginning of 8 July 2015, and

(b) the accommodation was social housing during the period starting with the beginning of 8 July 2015 and ending with the beginning of the tenancy.

(2) This paragraph does not apply if paragraph 3 applies.

(3) The registered provider must secure that the maximum amount of rent payable to the registered provider by the tenant in respect of—

(a) the first relevant year, where the tenancy begins before or at the beginning of the first relevant year,

(b) the part of the relevant year falling after the beginning of the tenancy, where the tenancy begins after the beginning of the first relevant year and not at the beginning of a later relevant year,

(c) the following relevant year, where the tenancy begins as described in paragraph (b), or

(d) the relevant year, other than the first relevant year, at the beginning of which the tenancy begins,

is no more than would be payable if the tenant were paying rent at the higher of the social rent rate and the assumed rent rate in respect of that relevant year or that part of a relevant year.

Changes to legislation: *There are currently no known outstanding effects for the Welfare Reform and Work Act 2016, PART 1. (See end of Document for details)*

(4) The social rent rate, in relation to the rent payable by a tenant of social housing in respect of the first or a subsequent relevant year, is the rate found by—

(a) determining what would have been the rate of formula rent for that social housing at the beginning of 8 July 2015,

(b) determining the rate of that rent when expressed by reference to a period of 12 months (if necessary), and

(c) at the beginning of each relevant year (up to and including the relevant year in question), making a 1% reduction in the rate.

(5) The assumed rent rate, in relation to the rent payable by a tenant of social housing in respect of the first or a subsequent relevant year, is the rate found by—

(a) determining the rate of the rent that—

(i) was payable at the beginning of 8 July 2015 by the person who was the tenant of that social housing, in a case where 8 July 2015 is the relevant day,

(ii) was payable at the beginning of the relevant day by the person who was the tenant of that social housing, in a case where the relevant day falls after 8 July 2015 and the person who was the tenant at the beginning of 8 July 2015 continued as tenant until at least that later time,

(iii) is likely to have been payable at the beginning of the relevant day by the person who was the tenant at the beginning of 8 July 2015 if the person's tenancy had continued until at least that later time, in a case where the relevant day falls after 8 July 2015 and the person who was the tenant at the beginning of 8 July 2015 ceased to be the tenant before that later time, or

(iv) is likely to have been payable at the beginning of the relevant day by a tenant of that social housing, in a case where there was no tenant at that time and sub-paragraph (iii) does not apply,

(b) determining the rate of that rent when expressed by reference to a period of 12 months (if necessary), and

(c) at the beginning of each relevant year (up to and including the relevant year in question), making a 1% reduction in the rate.

(6) If—

(a) the tenancy comes to an end after part of a relevant year to which sub-paragraph (3) applies has elapsed, or

(b) sub-paragraph (3)(a), (b), (c) or (d) ceases to apply in relation to the tenancy after part of the relevant year in question has elapsed,

sub-paragraph (3) has effect in relation to the part of the relevant year falling before that time with a proportionate reduction in the maximum amount of rent payable to the registered provider by the tenant.

(7) The Secretary of State may by regulations define “formula rent” and may, in particular, provide that it is a rent set in accordance with a method specified in the regulations.

(8) Regulations under sub-paragraph (7) may, in particular, make provision by reference to—

(a) the standard published in January 2015 by the regulator under section 194(2A) of the Housing and Regeneration Act 2008 (the powers of the regulator to set standards relating to levels of rent),

(b) *Rent Standard Guidance* published in January 2015 by the regulator, or

(c) *Guidance on Rents for Social Housing* published in May 2014 by the Secretary of State.

Commencement Information

I1 Sch. 2 para. 1 in force for specified purposes at Royal Assent, see s. 36(5)

I2 Sch. 2 para. 1 in force at 1.4.2016 in so far as not already in force by S.I. 2016/394, **reg. 4**

Tenancy of new social housing

2 (1) This paragraph applies in relation to a tenant of social housing in England if—

(a) the tenancy begins after the beginning of 8 July 2015, and

(b) paragraph 1(1)(b) is not satisfied as regards the accommodation.

(2) This paragraph does not apply if paragraph 3 applies.

(3) If the tenancy begins before or at the beginning of the first relevant year, the registered provider must secure that the maximum amount of rent payable to the registered provider by the tenant in respect of the first relevant year is the amount that would be payable by the tenant if the social rent rate applied during that relevant year.

(4) If the tenancy begins after the beginning of the first relevant year, the registered provider must secure that—

(a) the maximum amount of rent payable to the registered provider by the tenant in respect of the part of the relevant year falling after the tenancy begins, where the tenancy begins after part of a relevant year has elapsed,

(b) the maximum amount of rent payable to the registered provider by the tenant in respect of the following relevant year, where the tenancy begins as described in paragraph (a), or

(c) the maximum amount of rent payable to the registered provider by the tenant in respect of the relevant year, where the tenancy begins at the beginning of a relevant year,

is the amount that would be payable if the social rent rate applied during that period.

(5) If—

(a) the tenancy comes to an end after part of a relevant year to which sub-paragraph (3) or (4) applies has elapsed, or

(b) sub-paragraph (3) or (4)(a), (b) or (c) ceases to apply in relation to the tenancy after part of the relevant year in question has elapsed,

sub-paragraph (3) or (4) has effect in relation to the part of the relevant year falling before that time with a proportionate reduction in the maximum amount of rent payable to the registered provider by the tenant.

Commencement Information

I3 Sch. 2 para. 2 in force for specified purposes at Royal Assent, see s. 36(5)

I4 Sch. 2 para. 2 in force at 1.4.2016 in so far as not already in force by S.I. 2016/394, **reg. 4**

Tenancy of affordable rent housing

3 (1) This paragraph applies in relation to a tenant of social housing in England if—
(a) the tenancy begins after the beginning of 8 July 2015, and
(b) the accommodation is affordable rent housing (see paragraph 4).

(2) If the tenancy begins before or at the beginning of the first relevant year, the registered provider must secure that the maximum amount of rent payable to the registered provider by the tenant in respect of the first relevant year is the higher of—
(a) the amount found by—
(i) determining the rate of the market rent for that social housing when the tenancy begins, and
(ii) determining the amount that is 80% of the amount that would be payable in respect of a year if that rate had applied during the year, and
(b) the amount that would be payable in respect of the first relevant year if the tenant were paying rent at the social rent rate.

(3) If the tenancy begins after the beginning of the first relevant year, the registered provider must secure that—
(a) the maximum amount of rent payable to the registered provider by the tenant in respect of the part of the relevant year falling after the tenancy begins, where the tenancy begins after part of a relevant year has elapsed, or
(b) the maximum amount of rent payable to the registered provider by the tenant in respect of the relevant year, where the tenancy begins at the beginning of a relevant year,
is the higher of the amounts described in sub-paragraph (4).

(4) The amounts referred to in sub-paragraph (3) are—
(a) the amount found by—
(i) determining the rate of the market rent for that social housing when the tenancy begins,
(ii) determining the amount that is 80% of the amount that would be payable in respect of a year if that rate had applied during the year, and
(iii) (if necessary) reducing that amount in proportion to the part of that relevant year that elapsed before the tenancy begins, and
(b) the amount that would be payable in respect of the period in question if the tenant were paying rent at the social rent rate.

(5) If the tenancy begins after the beginning of the first relevant year and not at the beginning of the second or third relevant year, the registered provider must secure that the maximum amount of rent payable to the registered provider by the tenant in respect of the relevant year following the one in which the tenancy begins is the higher of—
(a) the amount that would be found under sub-paragraph (4)(a) if sub-paragraph (4)(a)(iii) were disregarded, and
(b) the amount that would be found under sub-paragraph (4)(b) if the period in question were the whole of the relevant year in which the tenancy begins,

reduced by 1%.

(6) If—

(a) the tenancy comes to an end after part of a relevant year to which sub-paragraph (2), (3) or (5) applies has elapsed, or

(b) sub-paragraph (2), (3) or (5) ceases to apply in relation to the tenancy after part of the relevant year in question has elapsed,

sub-paragraph (2), (3) or (5) has effect in relation to the part of the relevant year falling before that time with a proportionate reduction in the maximum amount of rent payable to the registered provider by the tenant.

(7) The market rent is to be determined using a RICS valuation method.

Commencement Information

I5 Sch. 2 para. 3 in force for specified purposes at Royal Assent, see s. 36(5)

I6 Sch. 2 para. 3 in force at 1.4.2016 in so far as not already in force by S.I. 2016/394, **reg. 4**

4 (1) This paragraph has effect for the purposes of paragraph 3.

(2) Affordable rent housing is accommodation identified by regulations made by the Secretary of State as accommodation that may be let as social housing at an affordable rent.

(3) Regulations under sub-paragraph (2) may, in particular, make provision for identifying accommodation that may be let as social housing at an affordable rent by reference to an agreement or arrangement relating to the provision of social housing by a registered provider.

(4) Regulations made by virtue of sub-paragraph (3) may, for example, make provision by reference to—

(a) an agreement relating to the exercise of a power under section 5 or 19 of the Housing and Regeneration Act 2008 (powers of the Homes and Communities Agency as regards the provision of housing or other land and financial assistance);

(b) an agreement relating to the exercise of a power under section 30 or 34 of the Greater London Authority Act 1999 (general and subsidiary powers of the Greater London Authority);

(c) an agreement between a local authority and the Secretary of State under section 11(6) of the Local Government Act 2003 (agreement about capital receipts payable to the Secretary of State);

(d) an arrangement between a local authority and the Homes and Communities Agency, the Greater London Authority or the Secretary of State under which rents for social housing may be set on a particular basis.

(5) Regulations under sub-paragraph (2) may define “affordable rent” and may, in particular, provide that it is a rent set in accordance with a method specified, or of a description specified, in the regulations.

(6) The methods that may be specified in the regulations include, but are not limited to, methods that provide for a maximum level of rent when accommodation is initially let to be a certain percentage of market rent in certain cases or circumstances.

(7) A reference to an amount of market rent includes a reference to an amount payable by way of service charge.

(8) "RICS valuation method" means a method for determining market rent that complies with standards for valuation published from time to time by the Royal Institution of Chartered Surveyors.

Commencement Information

I7 Sch. 2 para. 4 in force for specified purposes at Royal Assent, see s. 36(5)

I8 Sch. 2 para. 4 in force at 1.4.2016 in so far as not already in force by S.I. 2016/394, **reg. 4**

Changes to legislation:
There are currently no known outstanding effects for the Welfare Reform and Work Act 2016, PART 1.