

SCHEDULE 2

EXCEPTIONS TO SECTION 7

PART 3

TENANCIES AND LICENCES THAT ARE NEVER OCCUPATION CONTRACTS

The rule

- 7 (1) A tenancy or licence is not an occupation contract at any time when this paragraph applies to it.
- (2) This paragraph applies to a tenancy or licence if all the persons with whom it is made are excluded from being contract-holders by section 7(6) (individuals who have not reached the age of 18).
- (3) This paragraph also applies to—
- (a) a tenancy to which Part 2 of the [Landlord and Tenant Act 1954 \(c. 56\)](#) (business tenancies) applies;
 - (b) a protected occupancy or a statutory tenancy within the meaning of the [Rent \(Agriculture\) Act 1976 \(c. 80\)](#);
 - (c) a protected tenancy or a statutory tenancy within the meaning of the [Rent Act 1977 \(c. 42\)](#);
 - (d) a secure tenancy that is a housing association tenancy, within the meaning of section 86 of the [Rent Act 1977](#);
 - (e) a tenancy of an agricultural holding within the meaning of the [Agricultural Holdings Act 1986 \(c. 5\)](#);
 - (f) a farm business tenancy within the meaning of the [Agricultural Tenancies Act 1995 \(c. 8\)](#);
 - (g) a long tenancy (see paragraph 8);
 - (h) a tenancy or licence which relates to armed forces accommodation (see paragraph 9);
 - (i) a tenancy or licence which relates to direct access accommodation (see paragraph 10).

Meaning of “long tenancy”

- 8 (1) “Long tenancy” means—
- (a) a tenancy for a fixed term of more than 21 years (whether or not it is or may become terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture),
 - (b) a tenancy for a term fixed by law because of a covenant or obligation for perpetual renewal, other than a tenancy by sub-demise from one which is not a long tenancy, or
 - (c) a tenancy made in pursuance of Part 5 of the [Housing Act 1985 \(c. 68\)](#) (the right to buy), including a tenancy made in pursuance of that Part as it has effect because of section 17 of the [Housing Act 1996 \(c. 52\)](#) (the right to acquire).

- (2) But a tenancy terminable by notice after a death is not a long tenancy unless it is a shared ownership tenancy.
- (3) A shared ownership tenancy is a tenancy which—
 - (a) was made with a housing association which was a registered social landlord or a private registered provider of social housing,
 - (b) was made for a premium calculated by reference to a percentage of the value of the dwelling or of the cost of providing it, and
 - (c) when made complied with the requirements of the shared ownership regulations then in force.
- (4) A tenancy made before any shared ownership regulations were in force is to be treated as within sub-paragraph (3)(c) if, when the tenancy was made, it complied with the requirements of the first such regulations to come into force after it was made.
- (5) “Shared ownership regulations” means regulations under—
 - (a) section 140(4)(b) of the [Housing Act 1980 \(c. 51\)](#), or
 - (b) paragraph 5 of Schedule 4A to the [Leasehold Reform Act 1967 \(c. 88\)](#) made for the purposes of paragraph 4(2)(b) of that Schedule.

Meaning of “armed forces accommodation”

- 9 Armed forces accommodation is accommodation which is provided to—
- (a) a member of any of Her Majesty’s forces,
 - (b) a member of the family of a member of any of Her Majesty’s forces, or
 - (c) a civilian subject to service discipline (within the meaning of section 370 of the [Armed Forces Act 2006 \(c. 52\)](#)),
- for the purposes of any of Her Majesty’s forces.

Meaning of “direct access accommodation”

- 10 (1) Direct access accommodation is accommodation which—
- (a) is provided by a community landlord or a registered charity,
 - (b) (subject to availability) is provided on demand to any person who appears to satisfy criteria determined by the community landlord or charity, and
 - (c) is provided only for periods of 24 hours (or less) at a time.
- (2) Accommodation may be direct access accommodation even if it is provided to the same person for several periods in succession.