

SCHEDULES

SCHEDULE 15

Section 98.

GROUND FOR POSSESSION OF DWELLING-HOUSES LET ON OR SUBJECT TO PROTECTED OR STATUTORY TENANCIES

PART I

CASES IN WHICH COURT MAY ORDER POSSESSION

Case 1

Where any rent lawfully due from the tenant has not been paid, or any obligation of the protected or statutory tenancy which arises under this Act, or—

- (a) in the case of a protected tenancy, any other obligation of the tenancy, in so far as is consistent with the provisions of Part VII of this Act, or
- (b) in the case of a statutory tenancy, any other obligation of the previous protected tenancy which is applicable to the statutory tenancy,

has been broken or not performed.

Case 2

Where the tenant or any person residing or lodging with him or any sub-tenant of his has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has been convicted of using the dwelling-house or allowing the dwelling-house to be used for immoral or illegal purposes.

Case 3

Where the condition of the dwelling-house has, in the opinion of the court, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any person residing or lodging with him or any sub-tenant of his and, in the case of any act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, where the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant, as the case may be.

Case 4

Where the condition of any furniture provided for use under the tenancy has, in the opinion of the court, deteriorated owing to ill-treatment by the tenant or any person residing or lodging with him or any sub-tenant of his and, in the case of any ill-treatment by a person lodging with the tenant or a sub-tenant of his, where the court is satisfied that the tenant has not, before the making of the order in question, taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant, as the case may be.

Case 5

Where the tenant has given notice to quit and, in consequence of that notice, the landlord has contracted to sell or let the dwelling-house or has taken any other steps as the result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession.

Case 6

Status: This is the original version (as it was originally enacted).

Where, without the consent of the landlord, the tenant has, at any time after—

- (a) 1st September 1939, in the case of a controlled tenancy;
- (b) 22nd March 1973, in the case of a tenancy which became a regulated tenancy by virtue of section 14 of the Counter-Inflation Act 1973 ;
- (c) 14th August 1974, in the case of a regulated furnished tenancy; or
- (d) 8th December 1965, in the case of any other tenancy,

assigned or sublet the whole of the dwelling-house or sublet part of the dwelling-house, the remainder being already sublet.

Case 7

Where the tenancy is a controlled tenancy and the dwelling-house consists of or includes premises licensed for the sale of intoxicating liquor for consumption off the premises only, and—

- (a) the tenant has committed an offence as holder of the licence, or
- (b) the tenant has not conducted the business to the satisfaction of the licensing justices or the police authority, or
- (c) the tenant has carried on the business in a manner detrimental to the public interest, or
- (d) the renewal of the licence has for any reason been refused.

Case 8

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for some person engaged in his whole-time employment, or in the whole-time employment of some tenant from him or with whom, conditional on housing being provided, a contract for such employment has been entered into, and the tenant was in the employment of the landlord or a former landlord, and the dwelling-house was let to him in consequence of that employment and he has ceased to be in that employment.

Case 9

Where the dwelling-house is reasonably required by the landlord for occupation as a residence for—

- (a) himself, or
- (b) any son or daughter of his over 18 years of age, or
- (c) his father or mother, or
- (d) if the dwelling-house is let on or subject to a regulated tenancy, the father or mother of his wife or husband,

and the landlord did not become landlord by purchasing the dwelling-house or any interest therein after—

- (i) 7th November 1956, in the case of a controlled tenancy;
- (ii) 8th March 1973, in the case of a tenancy which became a regulated tenancy by virtue of section 14 of the Counter-Inflation Act 1973;
- (iii) 24th May 1974, in the case of a regulated furnished tenancy; or
- (iv) 23rd March 1965, in the case of any other tenancy.

Case 10

Where the court is satisfied that the rent charged by the tenant—

- (a) for any sublet part of the dwelling-house which is a dwelling-house let on a protected tenancy or subject to a statutory tenancy is or was in excess of the maximum rent for the time being recoverable for that part, having regard to Part II or, as the case may be Part III of this Act, or

- (b) for any sublet part of the dwelling-house which is subject to a restricted contract is or was in excess of the maximum (if any) which it is lawful for the lessor, within the meaning of Part V of this Act to require or receive having regard to the provisions of that Part.

PART II

CASES IN WHICH COURT MUST ORDER POSSESSION WHERE DWELLING-HOUSE SUBJECT TO REGULATED TENANCY

Case 11

Where a person who occupied the dwelling-house as his residence (in this Case referred to as "the owner-occupier") let it on a regulated tenancy and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case, and
- (b) the dwelling-house has not, since—
 - (i) 22nd March 1973, in the case of a tenancy which became a regulated tenancy by virtue of section 14 of the Counter-Inflation Act 1973 ;
 - (ii) 14th August 1974, in the case of a regulated furnished tenancy; or
 - (iii) 8th December 1965, in the case of any other tenancy,

been let by the owner-occupier on a protected tenancy with respect to which the condition mentioned in paragraph (a) above was not satisfied, and

- (c) the court is satisfied that the dwelling-house is required as a residence for the owner-occupier or any member of his family who resided with the owner-occupier when he last occupied the dwelling-house as a residence.

If the court is of the opinion that, notwithstanding that the condition in paragraph (a) or (b) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require.

The giving of a notice before 14th August 1974 under section 79 of the Rent Act 1968 shall be treated, in the case of a regulated furnished tenancy, as compliance with paragraph (a) of this case.

Case 12

Where a person (in this Case referred to as "the owner") who acquired the dwelling-house or any interest therein with a view to occupying it as his residence at such time as he might retire from regular employment let it on a regulated tenancy before he has so retired and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case; and
- (b) the dwelling-house has not, since 14th August 1974, been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (a) above was not satisfied; and
- (c) the court is satisfied either that the owner has retired from regular employment and requires the dwelling-house as a residence or that the owner has died and the dwelling-house is required as a residence for a member of his family who was residing with him at the time of his death.

If the court is of the opinion that, notwithstanding that the condition in paragraph (a) or (b) above is not complied with, it is just and equitable to make an order for possession

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of the dwelling-house, the court may dispense with the requirements of either or both of those paragraphs, as the case may require.

Case 13

Where the dwelling-house is let under a tenancy for a term of years certain not exceeding 8 months and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case ; and
- (b) the dwelling-house was, at some time within the period of 12 months ending on the relevant date, occupied under a right to occupy it for a holiday.

For the purposes of this Case a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term.

Case 14

Where the dwelling-house is let under a tenancy for a term of years certain not exceeding 12 months and—

- (a) not later than the relevant date the landlord gave notice in writing to the tenant that possession might be recovered under this Case ; and
- (b) at some time within the period of 12 months ending on the relevant date, the dwelling-house was subject to such a tenancy as is referred to in section 8(1) of this Act.

For the purposes of this Case a tenancy shall be treated as being for a term of years certain notwithstanding that it is liable to determination by re-entry or on the happening of any event other than the giving of notice by the landlord to determine the term.

Case 15

Where the dwelling-house is held for the purpose of being available for occupation by a minister of religion as a residence from which to perform the duties of his office and—

- (a) not later than the relevant date the tenant was given notice in writing that possession might be recovered under this Case, and
- (b) the court is satisfied that the dwelling-house is required for occupation by a minister of religion as such a residence.

Case 16

Where the dwelling-house was at any time occupied by a person under the terms of his employment as a person employed in agriculture, and

- (a) the tenant neither is nor at any time was so employed by the landlord and is not the widow of a person who was so employed, and
- (b) not later than the relevant date, the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed, or to be employed, by the landlord in agriculture.

For the purposes of this Case " employed", " employment" and " agriculture " have the same meanings as in the Agricultural Wages Act 1948.

Case 17

Where proposals for amalgamation, approved for the purposes of a scheme under section 26 of the Agriculture Act 1967, have been carried out and, at the time when the proposals were submitted, the dwelling-house was occupied by a person responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of the land comprised in the amalgamation and

- (a) after the carrying out of the proposals, the dwelling-house was let on a regulated tenancy otherwise than to, or to the widow of, either a person ceasing to be so responsible as part of the amalgamation or a person who is, or at any time was, employed by the landlord in agriculture, and
- (b) not later than the relevant date the tenant was given notice in writing that possession might be recovered under this Case, and
- (c) the court is satisfied that the dwelling-house is required for occupation by a person employed, or to be employed, by the landlord in agriculture, and
- (d) the proceedings for possession are commenced by the landlord at any time during the period of 5 years beginning with the date on which the proposals for the amalgamation were approved or, if occupation of the dwelling-house after the amalgamation continued in, or was first taken by, a person ceasing to be responsible as mentioned in paragraph (a) above or his widow, during a period expiring 3 years after the date on which the dwelling-house next became unoccupied.

For the purposes of this Case "employed" and "agriculture" have the same meanings as in the Agricultural Wages Act 1948 and "amalgamation" has the same meaning as in Part II of the Agriculture Act 1967.

Case 18

Where—

- (a) the last occupier of the dwelling-house before the relevant date was a person, or the widow of a person, who was at some time during his occupation responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of land which formed, together with the dwelling-house, an agricultural unit within the meaning of the Agriculture Act 1947, and
- (b) the tenant is neither—
 - (i) a person, or the widow of a person, who is or has at any time been responsible for the control of the farming of any part of the said land, nor
 - (ii) a person, or the widow of a person, who is or at any time was employed by the landlord in agriculture, and
- (c) the creation of the tenancy was not preceded by the carrying out in connection with any of the said land of an amalgamation approved for the purposes of a scheme under section 26 of the Agriculture Act 1967, and
- (d) not later than the relevant date the tenant was given notice in writing that possession might be recovered under this Case, and
- (e) the court is satisfied that the dwelling-house is required for occupation either by a person responsible or to be responsible (whether as owner, tenant, or servant or agent of another) for the control of the farming of any part of the said land or by a person employed or to be employed by the landlord in agriculture, and
- (f) in a case where the relevant date was before 9th August 1972, the proceedings for possession are commenced by the landlord before the expiry of 5 years from the date on which the occupier referred to in paragraph (a) above went out of occupation.

For the purposes of this Case "employed" and "agriculture" have the same meanings as in the Agricultural Wages Act 1948 and "amalgamation" has the same meaning as in Part II of the Agriculture Act 1967.

PART III

PROVISIONS APPLICABLE TO CASE 9 AND PART II OF THIS SCHEDULE

Provision for Case 9

- 1 A court shall not make an order for possession of a dwelling-house by reason only that the circumstances of the case fall within Case 9 in Part I of this Schedule if the court is satisfied that, having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the order than by refusing to grant it.

Provision for Part II

- 2 Any reference in Part II of this Schedule to the relevant date shall be construed as follows:—
- (a) except in a case falling within paragraph (b) or (c) below, if the protected tenancy, or, in the case of a statutory tenancy, the previous contractual tenancy, was created before 8th December 1965, the relevant date means 7th June 1966 ; and
 - (b) except in a case falling within paragraph (c) below, if the tenancy became a regulated tenancy by virtue of section 14 of the Counter-Inflation Act 1973 and the tenancy or, in the case of a statutory tenancy, the previous contractual tenancy, was created before 22nd March 1973, the relevant date means 22nd September 1973 ; and
 - (c) in the case of a regulated furnished tenancy, if the tenancy or, in the case of a statutory furnished tenancy, the previous contractual tenancy was created before 14th August 1974, the relevant date means 13th February 1975 ; and
 - (d) in any other case, the relevant date means the date of the commencement of the regulated tenancy in question.

PART IV

SUITABLE ALTERNATIVE ACCOMMODATION

- 3 For the purposes of section 98(1)(a) of this Act, a certificate of the housing authority for the district in which the dwelling-house in question is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date.
- 4 Where no such certificate as is mentioned in paragraph 1 above is produced to the court, accommodation shall be deemed to be suitable for the purposes of section 98(1)(a) of this Act if it consists of either—
- (a) premises which are to be let as a separate dwelling such that they will then be let on a protected tenancy, or
 - (b) premises to be let as a separate dwelling on terms which will, in the opinion of the court, afford to the tenant security of tenure reasonably equivalent to the security afforded by Part VII of this Act in the case of a protected tenancy,

and, in the opinion of the court, the accommodation fulfils the relevant conditions as defined in paragraph 5 below.

5 (1) For the purposes of paragraph 4 above, the relevant conditions are that the accommodation is reasonably suitable to the needs of the tenant and his family as regards proximity to place of work, and either—

(a) similar as regards rental and extent to the accommodation afforded by dwelling-houses provided in the neighbourhood by any housing authority for persons whose needs as regards extent are, in the opinion of the court, similar to those of the tenant and of his family ; or

(b) reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent and character; and

that if any furniture was provided for use under the protected or statutory tenancy in question, furniture is provided for use in the accommodation which is either similar to that so provided or is reasonably suitable to the needs of the tenant and his family.

(2) For the purposes of sub-paragraph (1)(a) above, a certificate of a housing authority stating—

(a) the extent of the accommodation afforded by dwelling-houses provided by the authority to meet the needs of tenants with families of such number as may be specified in the certificate, and

(b) the amount of the rent charged by the authority for dwelling-houses affording accommodation of that extent,

shall be conclusive evidence of the facts so stated.

6 Accommodation shall not be deemed to be suitable to the needs of the tenant and his family if the result of their occupation of the accommodation would be that it would be an overcrowded dwelling-house for the purposes of the Housing Act 1957.

7 Any document purporting to be a certificate of a housing authority named therein issued for the purposes of this Schedule and to be signed by the proper officer of that authority shall be received in evidence and, unless the contrary is shown, shall be deemed to be such a certificate without further proof.

8 In this Schedule " housing authority " means a council which is a local authority for the purpose of Part V of the Housing Act 1957, and "district", in relation to such an authority, means the district for supplying the needs of which the authority has power under that Part of that Act.