

SCHEDULES

SCHEDULE 1

PROVISIONS WITH RESPECT TO ACTIONS TO RECOVER LAND

PART I

ACCUAL OF RIGHTS OF ACTION TO RECOVER LAND

Accrual of right of action in case of present interests in land

- 1 Where the person bringing an action to recover land, or some person through whom he claims, has been in possession of the land, and has while entitled to the land been dispossessed or discontinued his possession, the right of action shall be treated as having accrued on the date of the dispossession or discontinuance.
- 2 Where any person brings an action to recover any land of a deceased person (whether under a will or on intestacy) and the deceased person—
- (a) was on the date of his death in possession of the land or, in the case of a rentcharge created by will or taking effect upon his death, in possession of the land charged ; and
 - (b) was the last person entitled to the land to be in possession of it;
- the right of action shall be treated as having accrued on the date of his death.
- 3 Where any person brings an action to recover land, being an estate or interest in possession assured otherwise than by will to him, or to some person through whom he claims, and—
- (a) the person making the assurance was on the date when the assurance took effect in possession of the land or, in the case of a rentcharge created by the assurance, in possession of the land charged ; and
 - (b) no person has been in possession of the land by virtue of the assurance ;
- the right of action shall be treated as having accrued on the date when the assurance took effect.

Accrual of right of action in case of future interests

- 4 The right of action to recover any land shall, in a case where—
- (a) the estate or interest claimed was an estate or interest in reversion or remainder or any other future estate or interest; and
 - (b) no person has taken possession of the land by virtue of the estate or interest claimed ;
- be treated as having accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.
- 5 (1) Subject to sub-paragraph (2) below, a tenancy from year to year or other period, without a lease in writing, shall for the purposes of this Act be treated as being

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determined at the expiration of the first year or other period ; and accordingly the right of action of the person entitled to the land subject to the tenancy shall be treated as having accrued at the date on which in accordance with this sub-paragraph the tenancy is determined.

(2) Where any rent has subsequently been received in respect of the tenancy, the right of action shall be treated as having accrued on the date of the last receipt of rent.

6 (1) Where—

- (a) any person is in possession of land by virtue of a lease in writing by which a rent of not less than ten pounds a year is reserved; and
- (b) the rent is received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease ; and
- (c) no rent is subsequently received by the person rightfully so entitled ;

the right of action to recover the land of the person rightfully so entitled shall be treated as having accrued on the date when the rent was first received by the person wrongfully claiming to be so entitled and not on the date of the determination of the lease.

(2) Sub-paragraph (1) above shall not apply to any lease granted by the Crown.

Accrual of right of action in case of forfeiture or breach of condition

7 (1) Subject to sub-paragraph (2) below, a right of action to recover land by virtue of a forfeiture or breach of condition shall be treated as having accrued on the date on which the forfeiture was incurred or the condition broken.

(2) If any such right has accrued to a person entitled to an estate or interest in reversion or remainder and the land was not recovered by virtue of that right, the right of action to recover the land shall not be treated as having accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

Right of action not to accrue or continue unless there is adverse possession

8 (1) No right of action to recover land shall be treated as accruing unless the land is in the possession of some person in whose favour the period of limitation can run (referred to below in this paragraph as " adverse possession "); and where under the preceding provisions of this Schedule any such right of action is treated as accruing on a certain date and no person is in adverse possession on that date, the right of action shall not be treated as accruing unless and until adverse possession is taken of the land.

(2) Where a right of action to recover land has accrued and after its accrual, before the right is barred, the land ceases to be in adverse possession, the right of action shall no longer be treated as having accrued and no fresh right of action shall be treated as accruing unless and until the land is again taken into adverse possession.

(3) For the purposes of this paragraph—

- (a) possession of any land subject to a rentcharge by a person (other than the person entitled to the rentcharge) who does not pay the rent shall be treated as adverse possession of the rentcharge; and

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- (b) receipt of rent under a lease by a person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease shall be treated as adverse possession of the land.
- (4) For the purpose of determining whether a person occupying any land is in adverse possession of the land it shall not be assumed by implication of law that his occupation is by permission of the person entitled to the land merely by virtue of the fact that his occupation is not inconsistent with the latter's present or future enjoyment of the land.

This provision shall not be taken as prejudicing a finding to the effect that a person's occupation of any land is by implied permission of the person entitled to the land in any case where such a finding is justified on the actual facts of the case.

*Possession of beneficiary not adverse to others
interested in settled land or land held on trust for sale*

- 9 Where any settled land or any land held on trust for sale is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale (not being a person solely or absolutely entitled to the land or the proceeds), no right of action to recover the land shall be treated for the purposes of this Act as accruing during that possession to any person in whom the land is vested as tenant for life, statutory owner or trustee, or to any other person entitled to a beneficial interest in the land or the proceeds of sale.