

Changes to legislation: Housing Act 1988, SCHEDULE 4 is up to date with all changes known to be in force on or before 18 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 4 Section 39.

STATUTORY TENANTS: SUCCESSION

PART I

AMENDMENTS OF SCHEDULE 1 TO ^{M1}RENT ACT 1977

Marginal Citations	
M1	1977 c. 42.

- 1 In paragraph 1 the words “or, as the case may be, paragraph 3” shall be omitted.
- 2 At the end of paragraph 2 there shall be inserted the following sub-paragraphs—
 “(2) For the purposes of this paragraph, a person who was living with the original tenant as his or her wife or husband shall be treated as the spouse of the original tenant.
 (3) If, immediately after the death of the original tenant, there is, by virtue of sub-paragraph (2) above, more than one person who fulfils the conditions in sub-paragraph (1) above, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be treated as the surviving spouse for the purposes of this paragraph.”
- 3 In paragraph 3—
 (a) after the words “residing with him” there shall be inserted “ “in the dwelling-house ”;
 (b) for the words “period of 6 months” there shall be substituted “ “period of 2 years ”;
 (c) for the words from “the statutory tenant” onwards there shall be substituted “ “entitled to an assured tenancy of the dwelling-house by succession ”; and
 (d) at the end there shall be added the following sub-paragraph—
 “(2) If the original tenant died within the period of 18 months beginning on the operative date, then, for the purposes of this paragraph, a person who was residing in the dwelling-house with the original tenant at the time of his death and for the period which began 6 months before the operative date and ended at the time of his death shall be taken to have been residing with the original tenant for the period of 2 years immediately before his death.”
- 4 In paragraph 4 the words “or 3” shall be omitted.
- 5 In paragraph 5—

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- (a) for the words from “or, as the case may be” to “of this Act” there shall be substituted “ “below shall have effect ””; and
- (b) for the words “the statutory tenant” there shall be substituted “ “entitled to an assured tenancy of the dwelling-house by succession ””.

6 For paragraph 6 there shall be substituted the following paragraph—

“6 (1) Where a person who—

- (a) was a member of the original tenant’s family immediately before that tenant’s death, and
- (b) was a member of the first successor’s family immediately before the first successor’s death,

was residing in the dwelling-house with the first successor at the time of, and for the period of 2 years immediately before, the first successor’s death, that person or, if there is more than one such person, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be entitled to an assured tenancy of the dwelling-house by succession.

- (2) If the first successor died within the period of 18 months beginning on the operative date, then, for the purposes of this paragraph, a person who was residing in the dwelling-house with the first successor at the time of his death and for the period which began 6 months before the operative date and ended at the time of his death shall be taken to have been residing with the first successor for the period of 2 years immediately before his death.”

7 Paragraph 7 shall be omitted.

8 In paragraph 10(1)(a) for the words “paragraphs 6 or 7” there shall be substituted “ “paragraph 6 ””.

9 At the end of paragraph 11 there shall be inserted the following paragraph—

“11A In this Part of this Schedule “the operative date” means the date on which Part I of the Housing Act 1988 came into force.”

PART II

AMENDMENTS OF SECTION 4 OF ^{M2}RENT (AGRICULTURE) ACT 1976

Marginal Citations

M2 1976 c. 80.

10 In subsection (2) the words “or, as the case may be, subsection (4)” shall be omitted.

11 In subsection (4)—

- (a) in paragraph (b) after the words “residing with him” there shall be inserted “ “in the dwelling-house ” and for the words “period of six months” there shall be substituted “ “period of 2 years ”; and
- (b) for the words from “the statutory tenant” onwards there shall be substituted “ “entitled to an assured tenancy of the dwelling-house by succession ””.

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- 12 In subsection (5) for the words “subsections (1), (3) and (4)” there shall be substituted “ “subsections (1) and (3) ” and after that subsection there shall be inserted the following subsections—
- “(5A) For the purposes of subsection (3) above, a person who was living with the original occupier as his or her wife or husband shall be treated as the spouse of the original occupier and, subject to subsection (5B) below, the references in subsection (3) above to a widow and in subsection (4) above to a surviving spouse shall be construed accordingly.
- (5B) If, immediately after the death of the original occupier, there is, by virtue of subsection (5A) above, more than one person who fulfils the conditions in subsection (3) above, such one of them as may be decided by agreement or, in default of agreement by the county court, shall be the statutory tenant by virtue of that subsection.
- (5C) If the original occupier died within the period of 18 months beginning on the operative date, then, for the purposes of subsection (3) above, a person who was residing in the dwelling-house with the original occupier at the time of his death and for the period which began 6 months before the operative date and ended at the time of his death shall be taken to have been residing with the original occupier for the period of 2 years immediately before his death; and in this subsection “the operative date” means the date on which Part I of the Housing Act 1988 came into force.”

PART III

MODIFICATIONS OF SECTION 7 AND SCHEDULE 2

- 13 (1) Subject to sub-paragraph (2) below, in relation to the assured tenancy to which the successor becomes entitled by succession, section 7 of this Act shall have effect as if in subsection (3) after the word “established” there were inserted the words “ “or that the circumstances are as specified in any of Cases 11, 12, 16, 17, 18 and 20 in Schedule 15 to the Rent Act 1977 ”.
- (2) Sub-paragraph (1) above does not apply if, by virtue of section 39(8) of this Act, the assured tenancy to which the successor becomes entitled is an assured agricultural occupancy.
- 14 If by virtue of section 39(8) of this Act, the assured tenancy to which the successor becomes entitled is an assured agricultural occupancy, section 7 of this Act shall have effect in relation to that tenancy as if in subsection (3) after the word “established” there were inserted the words “ “or that the circumstances are as specified in Case XI or Case XII of the Rent (Agriculture) Act 1976 ”.
- 15 (1) In relation to the assured tenancy to which the successor becomes entitled by succession, any notice given to the predecessor for the purposes of Case 13, Case 14 or Case 15 in Schedule 15 to the ^{M3}Rent Act 1977 shall be treated as having been given for the purposes of whichever of Grounds 3 to 5 in Schedule 2 to this Act corresponds to the Case in question.
- (2) Where sub-paragraph (1) above applies, the regulated tenancy of the predecessor shall be treated, in relation to the assured tenancy of the successor, as “the earlier tenancy” for the purposes of Part IV of Schedule 2 to this Act.

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M3 [1977 c. 42.](#)

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)