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## SCHEDULES

### SCHEDULE 2

#### FURTHER PROVISION ABOUT SOCIAL HOUSING RENTS

##### PART 2

##### EXCEPTIONS AND EXEMPTIONS

###### *Exceptions*

- 5 (1) Part 1 does not apply in relation to a tenant of social housing if—
- (a) the accommodation is low cost home ownership accommodation;
  - (b) the accommodation is both low cost rental accommodation and low cost home ownership accommodation (see section 71 of the Housing and Regeneration Act 2008).
- (2) Part 1 does not apply in relation to social housing of a registered provider if, where the registered provider's interest in the property that consists of or includes the social housing is subject to a mortgage—
- (a) the mortgagee is in possession of the interest in the property or the part of the property that includes the social housing, in the exercise of the mortgagee's powers to enforce the mortgage,
  - (b) a receiver has been appointed in relation to the interest in the property or the part of the property that includes the social housing by—
    - (i) the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage, or
    - (ii) the court, in connection with enforcing the mortgage,and that appointment is in force, or
  - (c) a person has been appointed by the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage (including, in the case of a floating charge which relates to the interest in the property, the power under paragraph 14 of Schedule B1 to the Insolvency Act 1986), to exercise powers that include a power to sell or otherwise dispose of the interest in the property or the part of the property that includes the social housing and that appointment is in force.
- (3) If—
- (a) a registered provider's interest in property that consists of or includes social housing was made subject to a mortgage, and
  - (b) the interest in the property, or the interest in the part that includes the social housing, is sold or otherwise disposed of after the coming into force of Part 1 by—
    - (i) the mortgagee, in the exercise of the mortgagee's powers to enforce the mortgage,

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- (ii) a receiver appointed by the mortgagee or by the court as described in sub-paragraph (2)(b), or
- (iii) a person appointed by the mortgagee as described in sub-paragraph (2)(c),

Part 1 ceases to apply in relation to that social housing at the time of that sale or other disposal.

- (4) In sub-paragraphs (2) and (3)—
  - “mortgage” includes a charge or other security;
  - “mortgagee” includes a person who is entitled to take steps to enforce a charge or other security.
- (5) The Secretary of State may by regulations provide for Part 1 not to apply in cases prescribed by the regulations.
- (6) Regulations under sub-paragraph (5) may in particular make provision about—
  - (a) tenants of a description prescribed by the regulations;
  - (b) tenancies of a description prescribed by the regulations;
  - (c) accommodation of a description prescribed by the regulations;
  - (d) accommodation which satisfies conditions prescribed by the regulations, including conditions relating to the funding of its building or refurbishment;
  - (e) events of a description prescribed by the regulations.
- (7) Regulations made by virtue of sub-paragraph (6)(a) may include provision about tenants whose income exceeds, or whose household's incomes exceed, an amount prescribed by the regulations during a period prescribed by the regulations.
- (8) Regulations made by virtue of sub-paragraph (6)(e) may include provision about periods during a tenancy when the rent payable is temporarily reduced or waived.

#### **Commencement Information**

- I1** [Sch. 2 para. 5](#) in force for specified purposes at Royal Assent, see [s. 36\(5\)](#)
- I2** [Sch. 2 para. 5](#) in force at 1.4.2016 in so far as not already in force by [S.I. 2016/394](#), [reg. 4](#)

#### *Exemptions*

- 6 (1) The regulator may issue a direction mentioned in sub-paragraph (2) in respect of a private registered provider if—
  - (a) the condition in sub-paragraph (4) or (5) is satisfied, and
  - (b) the Secretary of State consents.
- (2) The directions are—
  - (a) a direction that Part 1 does not apply in relation to a private registered provider specified in the direction;
  - (b) a direction that Part 1 is to have effect in relation to a private registered provider specified in the direction as if a reference in Part 1 to the social rent rate were a reference to that rate increased by the percentage specified in the direction;
  - (c) a direction that Part 1 is to have effect in relation to a private registered provider specified in the direction as if paragraph 1(4)(c) or (5)(c)—

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- (i) were omitted,
    - (ii) required the lesser reduction specified in the direction, or
    - (iii) required the increase specified in the direction;
  - (d) a direction that Part 1 is to have effect in relation to a private registered provider specified in the direction as if—
    - (i) in paragraph 3(5), “reduced by 1%” were omitted,
    - (ii) paragraph 3(5) required the lesser reduction specified in the direction, or
    - (iii) paragraph 3(5) required the increase specified in the direction.
- (3) The regulator may specify in a direction—
  - (a) the period during which it is to have effect, and
  - (b) the social housing in relation to which it is to have effect.
- (4) The condition in this sub-paragraph is that the regulator considers that complying with Part 1 would jeopardise the financial viability of the private registered provider.
- (5) The condition in this sub-paragraph is that the circumstances of the private registered provider satisfy requirements prescribed in regulations made by the Secretary of State.
- (6) The regulator may publish a document about the measures that the regulator considers could be taken by a private registered provider to comply with Part 1 and to avoid jeopardising its financial viability.
- (7) The Secretary of State may issue a direction mentioned in sub-paragraph (8) in respect of a local authority if the condition in sub-paragraph (10) or (11) is satisfied.
- (8) The directions are—
  - (a) a direction that Part 1 does not apply in relation to a local authority specified in the direction;
  - (b) a direction that Part 1 is to have effect in relation to a local authority specified in the direction as if a reference in Part 1 to the social rent rate were a reference to that rate increased by the percentage specified in the direction;
  - (c) a direction that Part 1 is to have effect in relation to a local authority specified in the direction as if paragraph 1(4)(c) or (5)(c)—
    - (i) were omitted,
    - (ii) required the lesser reduction specified in the direction, or
    - (iii) required the increase specified in the direction;
  - (d) a direction that Part 1 is to have effect in relation to a local authority specified in the direction as if—
    - (i) in paragraph 3(5), “reduced by 1%” were omitted,
    - (ii) paragraph 3(5) required the lesser reduction specified in the direction, or
    - (iii) paragraph 3(5) required the increase specified in the direction.
- (9) The Secretary of State may specify in a direction—
  - (a) the period during which it is to have effect, and
  - (b) the social housing in relation to which it is to have effect.

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- (10) The condition in this sub-paragraph is that the Secretary of State considers that the local authority would be unable to avoid serious financial difficulties if it were to comply with Part 1.
- (11) The condition in this sub-paragraph is that the circumstances of the local authority satisfy requirements prescribed in regulations by the Secretary of State.
- (12) The Secretary of State may publish a document about the measures that the Secretary of State considers could be taken by a local authority in order to comply with Part 1 and to avoid serious financial difficulties.

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