

SCHEDULE

HOUSING ACT 1980: SECTION 41A SECURE TENANCIES (RIGHT TO REPAIR) SCHEME 1985

Citation and interpretation

1.—(1) This scheme may be cited as the Secure Tenancies (Right to Repair) Scheme 1985.

(2) In this scheme, unless the context otherwise requires—

“the additional further repair works” has the meaning given by paragraph 20(3), and includes those works as varied by any agreement under paragraph 24;

“the authorised materials” means—

- (a) in a default case, the materials specified in the tenant's repair claim; and
- (b) in any other case, the materials authorised by the landlord in accordance with paragraph 7, as varied by any agreement under paragraph 24;

“default case” means a case to which paragraph 11(2) applies;

“flat” means a separate set of premises, whether or not on the same floor, which—

- (a) forms part of a building; and
- (b) is divided horizontally from some other part of that building; and
- (c) is constructed or adapted for use for the purposes of a dwelling-house;

“the further repair works” has the meaning given by paragraph 14(2), and includes those works as varied by any agreement under paragraph 24;

“the landlord's costs” means the costs (including administrative costs) which, in the landlord's opinion, it would incur, if it were to carry out the landlord's works;

“the landlord's repairing obligation” means the landlord's obligation to its secure tenant under its repairing covenant, in respect of the lack of repair to which the works specified in the tenant's repair claim relate;

“the landlord's works” means the works which, in the landlord's opinion, it would be necessary to carry out in order to fulfil the landlord's repairing obligation using such materials as it considers appropriate;

“qualifying repair” means any repair which the landlord of a secure tenant is obliged by a repairing covenant to carry out, other than a repair to the structure or exterior of a flat;

“the repair works” means—

- (a) in a default case, the works specified in the tenant's repair claim; and
- (b) in any other case, those works as approved by the landlord with or without modifications in accordance with paragraph 7,

as varied by any agreement under paragraph 24; and

“the tenant's repair claim” has the meaning given by paragraph 3(1).

(3) Any reference in this scheme to a numbered form shall be construed as a reference to the form bearing that number in Annex A to this scheme, or to a form substantially to the like effect.

(4) Any reference in this scheme to a numbered or lettered ground shall be construed as a reference to the ground bearing that number or that letter in Annex B or, as the case may be, Annex C to this scheme.

(5) Any reference in this scheme to a numbered paragraph shall be construed as a reference to the paragraph bearing that number in this scheme.

(6) Any notice in writing to be served under this scheme may be served by sending it by post.

Entitlement

2. A secure tenant is entitled to carry out a qualifying repair to his dwelling-house and, after carrying out such a repair, to recover a sum from his landlord, subject to and in accordance with the following provisions of this scheme.

Tenant's notice claiming the right to repair

3.—(1) A secure tenant who wishes to carry out a qualifying repair to the dwelling-house of which he is the secure tenant shall serve on his landlord a notice in Form 1 claiming the right to repair (“the tenant's repair claim”).

(2) A notice in Form 1 shall contain the following particulars—

- (a) a description of the works proposed to be carried out and the reasons why they are needed; and
- (b) a description of the materials proposed to be used.

(3) A notice in Form 1 shall state whether the tenant wishes to carry out all or any of the repair works himself or, as the case may be, to have them carried out by a person named by him.

Landlord's notice in reply to tenant's repair claim

4. Within 21 days of the service on the landlord of the tenant's repair claim, the landlord shall (unless the notice is withdrawn) serve on the tenant either a notice in Form 2 refusing the tenant's repair claim in accordance with paragraphs 5 and 6 or, as the case may be, a notice in Form 3 accepting the tenant's repair claim in accordance with paragraphs 7 and 8.

Grounds for refusal

5.—(1) The landlord shall refuse the tenant's repair claim in any case where any of the grounds set out in Part I of Annex B to this scheme applies.

(2) The landlord may refuse the tenant's repair claim on any one or more of the grounds set out in Part II of Annex B to this scheme.

Landlord's notice refusing tenant's repair claim

6. A landlord's notice in Form 2 refusing the tenant's repair claim shall contain the following particulars—

- (a) every ground for refusal of the tenant's repair claim, together with an explanation of the landlord's reasons for relying on that ground;
- (b) where one or more of grounds 1, 4, 5 or 6 is relied on, the amount of the landlord's costs; and
- (c) where ground 3 is relied on, the landlord's works and the amount of the landlord's costs.

Landlord's acceptance of tenant's repair claim etc

7.—(1) Where none of the grounds set out in Annex B is relied on by the landlord, the landlord shall—

- (a) accept the tenant's repair claim;
- (b) approve the works specified in the tenant's repair claim with or without modifications; and

(c) authorise the materials to be used in carrying out the works specified in the tenant's repair claim.

(2) In any of the circumstances described in sub-paragraph (3) below (but not otherwise), the landlord may, in accepting the tenant's repair claim, impose a condition that all or any of the repair works shall be carried out by a person approved by the landlord.

(3) The circumstances referred to in sub-paragraph (2) above are that—

- (i) the tenant does not wish to carry out the repair works himself; or
- (ii) in the landlord's opinion, the tenant is not likely to carry out the repair works without risk to his safety or that of any other person.

(4) The landlord may impose no condition of acceptance of the tenant's repair claim other than that specified in sub-paragraph (2) above.

Landlord's notice accepting tenant's repair claim

8.—(1) A landlord's notice in Form 3 shall contain the following particulars—

- (i) the date before which a claim for payment following the completion of the repair works must be made by the tenant, being a date not less than 3 months after the date of service of such notice;
- (ii) the amount of the landlord's costs;
- (iii) the amount, which shall be at least 75 per cent. but not more than 100 per cent. of the landlord's costs, which the landlord will pay in the circumstances provided for in paragraph 22; and
- (iv) any modifications of the works made, and the materials authorised, under paragraph 7.

(2) Where, in accepting the tenant's repair claim, the landlord imposes the condition specified in paragraph 7(2), the landlord's notice in Form 3 shall specify that condition and the names and addresses of no less than 3 persons approved by the landlord for the purposes of that condition.

Default notice

9.—(1) Where—

- (a) the landlord has failed to serve on the tenant a notice in Form 2 or Form 3 as required by paragraph 4; or
- (b) the landlord has served on the tenant a notice in Form 2 as required by paragraph 4, specifying ground 5 or ground 6, but has not carried out the landlord's works within the period specified in that ground,

the tenant may, in any case where the tenant's estimate of the cost to him of carrying out the works specified in the tenant's repair claim, using the materials specified therein, is not more than £200, serve a default notice on the landlord in Form 4.

(2) A default notice in Form 4 shall contain the following particulars—

- (a) the circumstances in which the tenant is entitled, under sub-paragraph (1) above, to serve the default notice; and
- (b) the tenant's estimate of the cost to him of carrying out the repair works.

Landlord's response to tenant's default notice

10.—(1) Within 7 days of the service of a default notice in Form 4, the landlord shall (unless the notice is withdrawn) either accept the tenant's repair claim in accordance with paragraph 7 and serve on the tenant a notice in Form 3 or, as the case may be, serve on the tenant a notice in Form 5 refusing the tenant's repair claim and the default notice.

(2) The landlord shall refuse the tenant's repair claim and the default notice where either—

- (i) the conditions for serving a default notice have not been fulfilled; or
- (ii) any of the grounds in Part I of Annex B to this scheme applies.
- (3) The landlord may refuse the tenant's repair claim and the default notice—
 - (a) on any one or more of grounds 4, 7 and 8;
 - (b) on the ground that the landlord intends to carry out the landlord's works within 7 days of service on the tenant of a notice in Form 5; or
 - (c) on the ground that the landlord has served on the tenant a notice in Form 2, specifying ground 5 or ground 6, and the landlord reasonably requires access to the dwelling-house in order to carry out the landlord's works, but the tenant has failed to provide such access, although he has been given a reasonable opportunity to do so.
- (4) A notice in Form 5 shall contain the following particulars—
 - (a) every ground for refusal of the tenant's repair claim and the default notice, together with an explanation of the landlord's reasons for relying on that ground;
 - (b) where ground 1, ground 4 or the ground in sub-paragraph (3)(b) above is relied on, the amount of the landlord's costs; and
 - (c) where ground 3 is relied on, the landlord's works and the amount of the landlord's costs.

Carrying out of the works by the tenant

11.—(1) Following the service on the tenant of the landlord's notice in Form 3, the tenant may carry out the repair works using the authorised materials and claim payment as provided for in paragraph 12.

(2) Where a tenant has served a default notice on the landlord in Form 4 in accordance with paragraph 9 and either—

- (a) the landlord has failed to serve a notice on him as provided for in paragraph 10; or
- (b) the landlord has served on him a notice in Form 5 specifying the ground in paragraph 10(3) (b) as a ground for refusal, but has not carried out the landlord's works within the period specified in that ground,

the tenant may carry out the works specified in the tenant's repair claim using the materials specified therein and claim payment as provided for in paragraph 12.

Tenant's claim for payment

12.—(1) Except where sub-paragraph (2) below applies, the tenant's claim for payment shall only be made where, in the tenant's opinion, the repair works have been completed.

(2) This sub-paragraph applies where, after the repair works have been started, it is discovered that the condition of the dwelling-house is such that it is not reasonable for the tenant to proceed further with those works.

(3) The tenant's claim for payment shall be made by serving notice in writing on the landlord—

- (a) in a case to which paragraph 11(1) applies, before the date specified in the landlord's notice in Form 3, as the date before which the tenant's claim for payment must be made;
- (b) in a default case, not later than the end of the period of four months beginning with the date of service on the landlord of the tenant's default notice,

or before such later date as the landlord may in any case allow.

(4) The tenant's claim for payment shall contain the following particulars—

- (a) the costs the tenant has incurred in carrying out the repair works;

- (b) whether, in the tenant's opinion, the repair works have been completed;
- (c) where, in the tenant's opinion, the repair works have not been completed, the reason for their not being completed; and
- (d) whether all or any of the repair works have been carried out by a person other than the tenant and, if so, the name of that person.

(5) For the purposes of sub-paragraph (4) above, any reference to the repair works includes, in a case to which sub-paragraph (2) above applies, a reference to such part of such works as has been completed.

Landlord's notice in reply to tenant's claim for payment

13. Within 21 days of the service on the landlord of the tenant's claim for payment under paragraph 12, the landlord shall serve on the tenant a notice in writing either refusing the tenant's claim for payment in accordance with paragraphs 14 and 15 or, as the case may be, accepting it in accordance with paragraph 22.

Refusal of tenant's claim for payment

14.—(1) The landlord shall refuse the tenant's claim for payment under paragraph 12 where any of the grounds set out in Part I of Annex C to this scheme applies.

(2) Where ground A is relied on, the landlord—

- (a) shall specify such further works using such materials as the landlord considers reasonably necessary to remedy the inadequacy or the incompleteness of the works that have been carried out (“the further repair works”); and
- (b) may impose a condition that all or any of the further repair works must be carried out by a person approved by the landlord.

(3) The landlord may refuse the tenant's claim for payment on any one or more of the grounds set out in Part II of Annex C to this scheme.

(4) Where ground D is relied on, the landlord shall specify a date and time at which an inspection of the repair works will take place.

Landlord's notice of refusal of tenant's claim for payment

15. The landlord's notice under paragraph 13 refusing the tenant's claim for payment shall contain the following particulars—

- (a) every ground for refusal, together with an explanation of the landlord's reasons for relying on that ground;
- (b) where ground A is relied on, the further repair works and the materials specified under paragraph 14(2)(a);
- (c) where ground D is relied on, the date and time specified under paragraph 14(4);
- (d) where ground A or D is relied on, the date before which a further claim for payment must be made, being a date not less than 2 months after service of such notice; and
- (e) where the landlord imposes the condition specified in paragraph 14(2)(b), that condition and the names and addresses of no less than 3 persons approved by the landlord for the purposes of that condition.

Further repair works

16. Where the landlord's notice in accordance with paragraphs 14 and 15 refusing the tenant's claim for payment has been served on the tenant specifying ground A as a ground for refusal, the tenant may carry out the further repair works specified in that notice using the materials specified therein.

Tenant's further claim for payment

17.—(1) The tenant's further claim for payment shall only be made where—

- (a) in a case to which paragraph 16 applies, the tenant has, in his opinion, completed the further repair works or sub-paragraph (2) below applies;
- (b) in a case where the landlord's notice under paragraph 15 refusing the tenant's claim for payment relied on ground D, an inspection of the repair works has been made.

(2) This sub-paragraph applies where, after the further repair works have been started, it is discovered that the condition of the dwelling-house is such that it is not reasonable for the tenant to proceed further with those works.

(3) The tenant's further claim for payment shall be made by serving notice in writing on the landlord before the date specified in the landlord's notice of refusal of payment in accordance with paragraph 15 or before such later date as the landlord may in any case allow.

(4) The tenant's further claim for payment shall state—

- (a) in a case to which paragraph 16 applies,
 - (i) whether, in the tenant's opinion, the further repair works have been completed and, if they have not, the reason for their not being completed;
 - (ii) whether all or any of the further repair works have been carried out by a person other than the tenant and, if so, the name of that person;
- (b) in a case where the landlord's notice under paragraph 15 refusing the tenant's claim for payment specified ground D as a reason for refusal, the date on which the inspection of the repair works was made; and
- (c) the costs the tenant has incurred in carrying out the further repair works.

Landlord's notice in reply to tenant's further claim for payment

18.—(1) Within 21 days of the service on the landlord of the tenant's further claim for payment in accordance with paragraph 17, the landlord shall serve on the tenant a notice in writing either refusing the tenant's further claim for payment in accordance with paragraph 19 or, as the case may be, accepting it in accordance with paragraph 22.

(2) The grounds set out in Annex C to this scheme shall apply to the further repair works as they apply in relation to repair works and accordingly—

- (a) ground A shall apply as if the reference to paragraph 12(2) were a reference to paragraph 17(2);
- (b) ground B shall apply as if the reference to paragraph 11 were a reference to paragraph 16;
- (c) ground C shall apply in relation to the materials specified under paragraph 14(2)(a), as it applies to the authorised materials;
- (d) ground E shall apply in relation to any condition imposed under paragraph 14(2)(b), as it applies to a condition imposed under paragraph 7(2); and
- (e) ground F shall apply in relation to the period specified under paragraph 17(3), as it applies to the period specified in paragraph 12(3).

Landlord's refusal of tenant's further claim for payment

19.—(1) The landlord shall refuse the tenant's further claim for payment under paragraph 17 where ground A or ground B applies in relation to the further repair works.

- (2) The landlord may refuse the tenant's further claim for payment—
- (a) on any one or more of grounds set out in Part II of Annex C to this scheme; or
 - (b) on the ground that no inspection of the repair works has taken place as provided for in paragraph 17(1)(b).

Further opportunity for tenant to carry out works and claim for payment

20.—(1) Where the landlord refuses the tenant's further claim for payment under paragraph 19 on ground A, it may, if it thinks fit, give the tenant a further opportunity to complete or, as the case may be, to remedy the inadequacy of the further repair works, using such materials, subject to such conditions and before such date as the landlord may specify.

(2) Where the landlord refuses the tenant's further claim for payment under paragraph 19 on ground D or on the ground specified in sub-paragraph (2)(b) of that paragraph, it may, if it thinks fit, give the tenant a further opportunity to provide access for an inspection, at such date and time as the landlord may specify.

(3) Where the landlord gives the tenant a further opportunity to carry out works as provided for in sub-paragraph (1) above, paragraphs 16 to 19 shall apply as if—

- (a) for the references to the landlord's notice in accordance with paragraphs 14 and 15, there were substituted references to the landlord's notice in accordance with paragraph 21;
- (b) for the references to further repair works, there were substituted references to the works specified in that notice (“the additional further repair works”);
- (c) for the references to the date specified under paragraph 15(d), there were substituted references to the date specified under paragraph 21(d); and
- (d) for the references in paragraph 18(2) to paragraph 14(2)(a) and paragraph 14(2)(b), there were substituted references to paragraph 20(1).

(4) Where the landlord gives the tenant a further opportunity to provide access for an inspection as provided for in sub-paragraph (2) above, paragraphs 16 to 19 shall apply as if—

- (a) for the references to the landlord's notice in accordance with paragraph 14 and 15, there were substituted reference to the landlord's notice in accordance with paragraph 21;
- (b) for the references to the date and time specified under paragraph 15(c) there were substituted references to the date and time specified in that notice; and
- (c) for the references to the date specified under paragraph 15(d) were substituted references to the date specified under paragraph 21(d).

Landlord's notice of refusal of tenant's further claim for payment

21. The landlord's notice refusing the tenant's further claim for payment under paragraph 19 shall contain the following particulars—

- (a) every ground for refusal, together with an explanation of the landlord's reasons for relying on that ground;
- (b) the specification of any works which the tenant is to have an opportunity to carry out under paragraph 20(1) and of any materials, any conditions, and the date specified under that paragraph;

- (c) the specification of a date and time for any further opportunity for inspection in a case to which paragraph 20(2) applies; and
- (d) in any case to which sub-paragraph (b) or (c) above applies, the specification of a date before which any further claim for payment must be made.

Landlord's acceptance of tenant's claim for payment or further claim for payment

22.—(1) Where none of the grounds set out in Annex C is relied on by the landlord and paragraph 19(2)(b) does not apply, the landlord shall accept the tenant's claim for payment under paragraph 12 or, as the case may be, the tenant's further claim for payment under paragraph 17 (or that paragraph as applied by paragraph 20).

(2) Where the landlord accepts the tenant's claim for payment or, as the case may be, the tenant's further claim for payment and the repair works or, as the case may be, the further repair works or the additional further repair works have been completed, the amount to be paid by the landlord shall be—

- (a) except where sub-paragraph (2)(b) below applies, the amount specified in the landlord's notice in Form 3 as the amount the landlord would pay to the tenant, as modified by any notification in accordance with paragraph 24(3); or
- (b) in a default case the amount of the costs incurred by the tenant in carrying out the repair works and, as the case may be, the further repair works and the additional further repair works, if any, or £200, whichever is the less.

(3) Where the landlord accepts the tenant's claim for payment or, as the case may be, the tenant's further claim for payment, in a case to which paragraph 12(2) or paragraph 17(2) (or paragraph 17(2) as applied by paragraph 20) applies, the amount to be paid by the landlord shall be—

- (a) in a case where the landlord accepted the tenant's repair claim by serving a notice in Form 3, whichever is the lesser of the following—
 - (i) the amount specified in that notice as the amount the landlord would pay, as modified by any notification in accordance with paragraph 24(3); and
 - (ii) an amount equal to the costs which, in the landlord's opinion, the tenant has reasonably incurred in carrying out those works which he has carried out; and
- (b) in a default case, an amount equal to the cost which, in the landlord's opinion, the tenant has reasonably incurred in carrying out those works which he has carried out, or £200, whichever is the less.

Payment by the landlord

23.—(1) The landlord may make payment to the tenant in any manner that it thinks fit, except that the landlord may only credit the tenant's rent account in any case where the tenant is in arrears with the rent for his dwelling-house at the date of the payment, and to the extent of the arrears.

(2) The landlord's notice accepting the tenant's claim for payment under paragraph 12 or, as the case may be, the tenant's further claim for payment under paragraph 17 (or that paragraph as applied by paragraph 20) shall contain the following particulars—

- (a) the amount to be paid;
- (b) the manner by which payment is to be made; and
- (c) a date, no later than 14 days after service of such notice, by which payment is to be made, where such payment is not concurrent with the notice.

Variations etc. by agreement

24.—(1) The landlord may at any time agree with the tenant a variation to any of the following—

- (a) the repair works, the further repair works, or the additional further repair works;
- (b) the authorised materials, the materials specified under paragraph 14(2) or the materials specified under paragraph 20(1),

and may make its agreement conditional upon the requirement that any such works are carried out by a person approved by the landlord.

(2) The landlord may at any time agree with the tenant—

- (a) to remove any condition of acceptance of the tenant's repair claim imposed under paragraph 7(2), paragraph 14(2), paragraph 20(1) or under sub-paragraph (1) above;
- (b) to approve additional persons for the purposes of any condition referred to in sub-paragraph (2)(a) above.

(3) Where the landlord agrees any variation under sub-paragraph (1) or (2) above, it shall notify the tenant in writing within 7 days, where appropriate, of any consequent modification to the amount of the landlord's costs or to the amount specified in the landlord's notice in Form 3 as the amount the landlord will pay the tenant.

Suspension of repairing obligation

25.—(1) Where the repair works may be carried out by the tenant in accordance with paragraph 11, the landlord's obligation to its secure tenant under its repairing covenant, in respect of the lack of repair to which the repair works relate, shall cease to apply—

- (a) from the service of the landlord's notice in Form 3 accepting the tenant's claim; or
- (b) in a default case, from the date on which the tenant may carry out the repair works as provided for in paragraph 11(2),

until whichever is the earliest of the following—

- (i) the service on the landlord of the tenant's claim for payment in accordance with paragraph 12;
- (ii) the service on the landlord of notice in writing by the tenant that he does not intend to carry out or to proceed further with the repair works; or
- (iii) the expiry of the period during which the tenant's claim for payment must be made in accordance with paragraph 12.

(2) Where the further repair works or the additional further repair works may be carried out in accordance with paragraph 16 (or that paragraph as applied by paragraph 20), the landlord's obligation to its secure tenant under its repairing covenant, in respect of the lack or repair to which the repair works relate, shall cease to apply from the service of the landlord's notice in accordance with paragraph 14 and 15 or paragraph 21, until whichever is the earliest of the following—

- (a) the service on the landlord of the tenant's further claim for payment in accordance with paragraph 17 (or that paragraph as applied by paragraph 20);
- (b) the service on the landlord of notice in writing by the tenant that he does not intend to carry out or to proceed further with the further repair works or, as the case may be, the additional further repair works; or
- (c) the expiry of the period during which the tenant's further claim for payment must be made in accordance with paragraph 17 (or that paragraph as applied by paragraph 20).

Disputes

26. Any question arising under this scheme may be referred by the landlord or the tenant to and determined by the county court.