

SCHEDULE 4

DOMESTIC PREMISES WHICH ARE NOT PRIVATE DOMESTIC PREMISES

- 1.—(1) Domestic premises in England or Wales are not “private domestic premises” if—
- (a) the relevant interest in those premises is registered as belonging to a social landlord and the condition in sub-paragraph (3) is met; or
 - (b) if no relevant interest in the premises has been registered—
 - (i) the premises are let to the member of the affordable warmth group, or a person who lives with the member of the affordable warmth group, by a social landlord other than under a lease granted pursuant to Part V of the Housing Act 1985(1); and
 - (ii) the condition in sub-paragraph (3) is met.
- (2) Domestic premises in Scotland are not “private domestic premises” if—
- (a) the relevant interest in the premises is registered as belonging to a social landlord and the condition in sub-paragraph (3) is met; or
 - (b) if no relevant interest in the premises has been registered—
 - (i) the premises are let to the member of the affordable warmth group, or a person who lives with the member of the affordable warmth group, by a social landlord other than under a lease granted pursuant to sections 61 to 84 of the Housing (Scotland) Act 1987(2), as modified by section 84A of that Act(3); and
 - (ii) the condition in sub-paragraph (3) is met.
- (3) The condition in this sub-paragraph is that the premises are let to the member of the affordable warmth group, or a person who lives with the member of the affordable warmth group, at below the market rate.
- (4) In this paragraph—
- (a) in respect of premises in England or Wales, a relevant interest is registered if it is registered in the register of title maintained by Her Majesty’s Land Registry;
 - (b) in respect of premises in Scotland, a relevant interest is registered if it is—
 - (i) registered in the Land Register of Scotland; or

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- (1) 1985 c.68. Part V was amended by section 235 of and Schedule 10 to the Insolvency Act 1985 (c. 65), section 437 of and Schedule 11 to the Insolvency Act 1986 (c. 45), sections 2, 4, 8, 24 of and Schedule 5 to the Housing and Planning Act 1986 (c.63), sections 1 and 2 of and the Schedule to the Land Registration Act 1988 (c.3), sections 83, 122, 124, 126, 127, 140 of and Schedule 17 to the Housing Act 1988 (c.50), sections 104, 105, 108 to 120, 187(2) of and Schedules 21 and 22 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), section 66 of and Schedule 8 to the Family Law Act 1996 (c.27), section 222 of and Schedule 18 to the Housing Act 1996 (c.52), sections 140 and 152 of and Schedules 16 and 18 to the Government of Wales Act 1998 (c. 38), the Statute Law (Repeals) Act 1998 (c.43), section 14 of and Schedule 1 to the Anti-Social Behaviour Act 2003 (c.38), sections 81 and 261 of and Schedules 8 and 30 to the Civil Partnership Act 2004, sections 180 to 190, 192, 193 and 270 of the Housing Act 2004 (c.34), section 93 of and Schedule 15 to the Countryside and Rights of Way Act 2000 (c.37), sections 133 and 135 of and Schedules 11 and 13 to the Land Registration Act 2002 (c.9), sections 52 and 53 of the Police and Justice Act 2006 (c.48), sections 304, 306, 191, 307, 321 and 325 of and Schedule 16 to the Housing and Regeneration Act 2008 (c.17), section 31 of the Housing (Wales) Measure 2011 (nawm 5), section 195 of and Schedule 19 to the Localism Act 2011 (c. 20), S.I. 1993/651, article 2 and Schedule 1, S.I. 1996/2325, article 5 and Schedule 2, S.I. 1997/74, article 2 and Schedule, S.I. 1997/627, article 2 and Schedule, S.I. 2001/3649, article 299, S.I. 2005/3237, article 2, S.I. 2007/709, article 4, S.I. 2009/1941, article 2 and Schedule, S.I. 2010/844, article 6 and Schedule 2, S.I. 2010/866, articles 4 and 5 and Schedules 1 and 2.
- (2) 1987 c.26. Sections 61 to 84 were amended by sections 1, 3, 65 and 72 of and Schedules 2, 8, 9 and 10 to the Housing (Scotland) Act (c.43), sections 168, 176, 194 of and Schedules 11 and 12 to the Local Government and Housing Act 1989 (c.42), sections 144, 145, 157, 187 of and Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993, section 180 of and Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), sections 4 and 6 of and Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), section 152 of and Schedule 18 to the Government of Wales Act 1998, sections 42 to 49, 51, 108 and 112 of and Schedule 10 to the Housing (Scotland) Act 2001 (asp 10), section 71 of and Schedule 7 to the Water Industry (Scotland) Act 2002 (asp 3), S.I. 2010/2040, articles 1 and 2 and Schedule.
- (3) Section 84A was inserted by the Local Government and Housing Act 1989.

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

(ii) recorded in the Register of Sasines.

(5) In this paragraph—

“owner” includes any person who under the Land Clauses Acts⁽⁴⁾ would be enabled to sell and convey land to promoters of an undertaking;

“relevant interest” means—

(a) in respect of premises in England or Wales—

- (i) the freehold estate, unless the whole of the premises have been let under a registered lease; or
- (ii) the leasehold estate, unless the whole of the premises have been further let under a registered lease;

(b) in respect of premises in Scotland—

- (i) the owner’s interest or right, unless the whole of the premises have been further let under a registered lease; or
- (ii) the lessee’s interest under a lease, unless the whole of the premises have been further let under a registered lease;

“social landlord” means—

(a) in respect of premises in England—

- (i) a local housing authority, within the meaning of section 1 of the Housing Act 1985⁽⁵⁾;
- (ii) a housing association, within the meaning of section 5 of the Housing Act 1985⁽⁶⁾;
- (iii) a housing trust, within the meaning of section 6 of the Housing Act 1985; or
- (iv) a charity, within the meaning of section 1 of the Charities Act 2011⁽⁷⁾;

(b) in respect of premises in Scotland, a person so described in section 165 of the Housing (Scotland) Act 2010⁽⁸⁾; and

(c) in respect of premises in Wales—

- (i) a local housing authority, within the meaning of section 1 of the Housing Act 1985;
- (ii) a housing association, within the meaning of section 5 of the Housing Act 1985;
- (iii) a housing trust, within the meaning of section 6 of the Housing Act 1985;
- (iv) a charity, within the meaning of section 1 of the Charities Act 2011;
- (v) a person listed in section 80(1) of the Housing Act 1985; or
- (vi) a body registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996⁽⁹⁾.

(4) Defined in Schedule 1 to the Interpretation Act 1978 (c.30).

(5) Section 1 was amended by section 22 of and Schedule 8 to the Local Government (Wales) Act 1994 (c.19).

(6) Section 5 was amended by S.I. 1996/2325, article 5 and Schedule 2, and S.I. 2010/866, article 5 and Schedule 2. It is also amended by virtue of section 2 of the Co-operative and Community Societies and Credit Unions Act 2010 (c.7).

(7) 2011 c.25.

(8) 2010 asp 17.

(9) 1996 c.52. Chapter 1 of Part 1 was amended by sections 140 and 152 of, and Schedules 16 and 18 to the Government of Wales Act 1998, section 75 of and Schedule 8 to the Charities Act 2006 (c.50), sections 61 and 321 of, and Schedule 16 to the Housing and Regeneration Act 2008, sections 2 and 8 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010, S.I. 2001/3649 and S.I. 2009/1941.