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SCHEDULES

PROSPECTIVE

SCHEDULE 7

SECURE TENANCIES ETC: PHASING OUT OF TENANCIES FOR LIFE

Housing Act 1985 (c. 68)

- 2 The Housing Act 1985 is amended as follows.
- 3 For the italic heading before section 79 substitute— “ Secure tenancies ”.
- 4 After section 81 insert—

“Grant of new secure tenancies in England

81A New English secure tenancies to be between 2 and 10 years in general

- (1) A person may grant a secure tenancy of a dwelling-house in England only if it is a tenancy for a fixed term that is—
- (a) at least 2 years, and
 - (b) no longer than the permitted maximum length.
- (2) The permitted maximum length is 10 years, unless subsection (3) applies.
- (3) If the person granting the tenancy has been notified in writing that a child aged under 9 will live in the dwelling-house, the permitted maximum length is the period—
- (a) beginning with the day on which the tenancy is granted, and
 - (b) ending with the day on which the child will reach the age of 19.
- (4) If a person purports to grant a secure tenancy in breach of subsection (1), it takes effect as a tenancy for a fixed term of 5 years.
- (5) In deciding what length of tenancy to grant in a case to which this section applies a person must have regard to any guidance given by the Secretary of State.
- (6) This section does not apply to the grant of an old-style secure tenancy (as to which, see section 81B).

81B Cases where old-style English secure tenancies may be granted

- (1) A person may grant an old-style secure tenancy of a dwelling-house in England only—

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- (a) in circumstances specified in regulations made by the Secretary of State,
 - (b) in accordance with subsection (2), or
 - (c) if required to do so by section 158(9B) of the Localism Act 2011 (which relates to transfer requests made before section 121 of the Housing and Planning Act 2016 comes into force).
- (2) A local housing authority that grants a secure tenancy of a dwelling-house in England must grant an old-style secure tenancy if—
- (a) the tenancy is offered as a replacement for an old-style secure tenancy of some other dwelling-house, and
 - (b) the tenant has not made an application to move.
- (3) Other provisions of this Part set out the consequences of a tenancy being an old-style secure tenancy.
- (4) Regulations under subsection (1) may include transitional or saving provision.
- (5) Regulations under subsection (1) are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

81C Duty to offer new secure tenancy in limited circumstances

- (1) This section applies where a change in circumstances means that a tenancy that is not a secure tenancy would become a secure tenancy but for the exception in paragraph 1ZA of Schedule 1.
- (2) The landlord must, within the period of 28 days, make the tenant a written offer of a secure tenancy in return for the tenant surrendering the original tenancy.
- (3) If the tenant accepts in writing within the period of 28 days beginning with the day on which the tenant receives the offer, the landlord must grant the secure tenancy on the tenant surrendering the original tenancy.

81D Review of decisions about length of secure tenancies in England

- (1) A person who is offered a secure tenancy of a dwelling-house in England (under section 81C or otherwise) may request a review under this section, unless the tenancy on offer is an old-style secure tenancy.
- (2) The sole purpose of a review under this section is to consider whether the length of the tenancy is in accordance with any policy that the prospective landlord has about the length of secure tenancies it grants.
- (3) The request must be made before the end of—
 - (a) the period of 21 days beginning with the day on which the person making the request first receives the offer, or
 - (b) such longer period as the prospective landlord may allow in writing.

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- (4) On receiving the request the prospective landlord must carry out the review.
- (5) On completing the review the prospective landlord must —
 - (a) notify the tenant in writing of the outcome,
 - (b) revise its offer or confirm its original decision about the length of the tenancy, and
 - (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (7) The regulations may, in particular—
 - (a) require the review to be carried out by a person of appropriate seniority who was not involved in the original decision;
 - (b) make provision as to the circumstances in which the person who requested the review is entitled to an oral hearing, and whether and by whom that person may be represented.
- (8) Regulations under this section may include transitional or saving provision.
- (9) Regulations under this section are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.”

5 In section 82 (security of tenure), in subsection (3), for the words from “section 86” to the end substitute “ section 86 or 86D shall apply ”.

6 After section 82 insert— “ Orders for possession and expiry of term etc ”.

7 (1) Section 82A (demoted tenancy) is amended as follows.

(2) After subsection (4) insert—

“(4A) The court may not make a demotion order in relation to a secure tenancy of a dwelling-house in England if—

- (a) the landlord is a local housing authority or housing action trust, and
- (b) the term has less than 1 year and 9 months left to run

(4B) But subsection (4A) does not apply to a tenancy to which an exception in section 86A(2) or (3) applies.”

(3) In subsection (5), for paragraph (b) substitute—

“(b) the period or term of the tenancy (but see subsection (6));”.

(4) For subsection (6) substitute—

“(6) Subsection (5)(b) does not apply if—

- (a) the secure tenancy was for a fixed term and was an old-style secure tenancy or a flexible tenancy, or
- (b) the secure tenancy was for a fixed term and was a tenancy of a dwelling-house in Wales,

and in such a case the demoted tenancy is a weekly periodic tenancy.”

8 In section 83 (proceedings for possession or termination: general notice requirements), in subsection (A1), for paragraph (b) substitute—

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- “(b) proceedings for possession of a dwelling-house under section 86E (recovery of possession on expiry of certain English secure tenancies).”
- 9 In section 84 (grounds and orders for possession), in subsection (1), for “section 107D (recovery of possession on expiry of flexible tenancy)” substitute “section 86E (recovery of possession on expiry of certain English secure tenancies)”.
- 10 (1) Section 86 (periodic tenancy arising on termination of fixed term) is amended as follows.
- (2) In subsection (1), after “secure tenancy” insert “ to which this section applies ”.
- (3) After subsection (1) insert—
- “(1A) This section applies to a secure tenancy of a dwelling-house in Wales.
- (1B) This section also applies to a secure tenancy of a dwelling-house in England that is—
- (a) an old-style secure tenancy, or
- (b) a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force,
- unless it is a tenancy excluded by subsection (1C).”
- (4) In subsection (2), for “this section” substitute “ subsection (1) ”.
- 11 After section 86 insert—

“English secure tenancies: review, renewal and possession

86A English tenancies: review to determine what to do at end of fixed term

- (1) The landlord under a fixed term secure tenancy of a dwelling-house in England must carry out a review to decide what to do at the end of the term, unless one of the following exceptions applies.
- (2) Exception 1 is where the tenancy is an old-style secure tenancy.
- (3) Exception 2 is where the tenancy is a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.
- (4) A review under this section must be carried out while the term has 6 to 9 months left to run.
- (5) On a review under this section the landlord must decide which of the following options to take.

Option 1: offer to grant a new secure tenancy of the dwelling-house at the end of the current tenancy.

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| Option 2: | seek possession of the dwelling house at the end of the current tenancy but offer to grant a secure tenancy of another dwelling-house instead. |
| Option 3: | seek possession of the dwelling-house at the end of the current tenancy without offering to grant a secure tenancy of another dwelling-house. |

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- (6) The landlord must also—
- (a) offer the tenant advice on buying a home if the landlord considers that to be a realistic option for the tenant, and
 - (b) in appropriate cases, offer the tenant advice on other housing options.

86B Notification of outcome of review under section 86A

- (1) On completing a review under section 86A the landlord must notify the tenant in writing of the outcome of the review.
- (2) The notice must be given by no later than 6 months before the end of the term of the current tenancy.
- (3) The notice must state which of the options mentioned in section 86A the landlord has decided to take.
- (4) If the landlord has decided to seek possession of the dwelling-house at the end of the secure tenancy the notice must also—
 - (a) inform the tenant of the right under section 86C to request the landlord to reconsider, and
 - (b) specify the time limit for making a request under that section.
- (5) If the notice states that the landlord has decided to offer a new tenancy and the tenant accepts in writing before the end of the current tenancy, the landlord must grant the new tenancy in accordance with the offer.

86C Reconsideration of decision not to grant a tenancy

- (1) Where a tenant is notified that the outcome of a review under section 86A is that the landlord has decided to seek possession of the dwelling-house at the end of the current tenancy, the tenant may request the landlord to reconsider its decision.
- (2) The request must be made before the end of the period of 21 days beginning with the day on which tenant was notified of the decision.
- (3) On receiving the request, the landlord must reconsider its decision.
- (4) The landlord must, in particular, consider whether the original decision is in accordance with any policy that the landlord has about the circumstances in which it will grant a further tenancy on the coming to an end of an existing fixed term tenancy.
- (5) Once the landlord has reconsidered the decision the landlord must—
 - (a) notify the tenant in writing of the outcome,
 - (b) revise or confirm its original decision, and

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- (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with reconsidering a decision for the purposes of this section.
- (7) The regulations may, in particular—
 - (a) require the original decision to be reconsidered by a person of appropriate seniority who was not involved in the original decision, and
 - (b) make provision as to the circumstances in which the person who requested the landlord to reconsider the original decision is entitled to an oral hearing, and whether and by whom that person may be represented.
- (8) Regulations under this section may include transitional or saving provision.
- (9) Regulations under this section are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

86D Fixed term tenancy arising on termination of previous fixed term

- (1) This section applies to a secure tenancy of a dwelling-house in England other than—
 - (a) an old-style secure tenancy, or
 - (b) a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.
- (2) If the tenancy comes to an end by virtue of the term expiring, or by virtue of an order under section 82(3), a new tenancy of the same dwelling-house arises by virtue of this subsection.
- (3) Where the landlord has offered the tenant a new tenancy of the same dwelling-house following a review under section 86A but the tenant has failed to accept, the new tenancy that arises by virtue of subsection (2) is a fixed term tenancy of whatever length the landlord offered.
- (4) In any other case, the new tenancy that arises by virtue of subsection (2) is a 5 year fixed term tenancy.
- (5) The parties and other terms of a new tenancy that arises by virtue of subsection (2) are the same as those of the tenancy that it replaces, except that the terms are confined to those which are compatible with a tenancy of the length determined in accordance with subsection (3) or (4).
- (6) A new tenancy does not arise by virtue of subsection (2) if the tenant has been granted another secure tenancy of the same dwelling-house to begin at the same time as the earlier tenancy ends.

86E Recovery of possession of secure tenancies in England

- (1) The landlord under a secure tenancy of a dwelling-house in England may bring proceedings for possession under this section if—

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- (a) the landlord has decided on a review under section 86A to seek possession at the end of the tenancy, and
 - (b) the landlord has not subsequently revised the decision under section 86C.
- (2) If the landlord brings proceedings under this section the court must make an order for possession if satisfied that—
 - (a) the landlord has complied with all of the requirements of sections 86A to 86C,
 - (b) the tenancy that was the subject of the review section 86A has ended,
 - (c) the proceedings were commenced before the end of the period of 3 months beginning with the day on which the tenancy ended, and
 - (d) the only fixed term tenancy still in existence is a new secure tenancy arising by virtue of section 86D.
- (3) But the court may refuse to grant an order for possession under this section if the court considers that a decision of the landlord under section 86A or 86C was wrong in law.
- (4) Where a court makes an order for possession of a dwelling-house under this section, any fixed term tenancy arising by virtue of section 86D on the coming to an end of the tenancy that was the subject of the review under section 86A comes to an end (without further notice) in accordance with section 82(2).
- (5) This section does not limit any right of the landlord under a secure tenancy to recover possession of the dwelling-house let on the tenancy in accordance with other provisions of this Part.

Termination of English secure tenancies by tenant

86F Termination of English secure tenancies by tenant

- (1) It is a term of every secure tenancy of a dwelling-house in England, other than an old-style secure tenancy, that the tenant may terminate the tenancy in accordance with the following provisions of this section.
- (2) The tenant must serve a notice in writing on the landlord stating that the tenancy will be terminated on the date specified in the notice.
- (3) That date must be after the end of the period of four weeks beginning with the date on which the notice is served.
- (4) The landlord may agree with the tenant to dispense with the requirement in subsection (2) or (3).
- (5) The tenancy is terminated on the date specified in the notice or (as the case may be) determined in accordance with arrangements made under subsection (4) only if on that date—
 - (a) no arrears of rent are payable under the tenancy, and
 - (b) the tenant is not otherwise materially in breach of a term of the tenancy.”

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- 12 (1) Section 97 (tenant's improvements require consent) is amended as follows.
- (2) In subsection (1), after “secure tenancy” insert “ to which this section applies ”.
- (3) After subsection (1) insert—
- “(1A) This section applies to—
- (a) a secure tenancy of a dwelling-house in Wales, or
- (b) an old-style secure tenancy of a dwelling-house in England.”
- (4) Omit subsection (5).
- 13 (1) Section 99A (right to compensation for improvements) is amended as follows.
- (2) In subsection (1)(c), after “secure tenancy” insert “ to which this section applies ”.
- (3) After subsection (1) insert—
- “(1A) This section applies to—
- (a) a secure tenancy of a dwelling-house in Wales, or
- (b) an old-style secure tenancy of a dwelling-house in England.”
- (4) Omit subsection (9).
- 14 Omit sections 107A to 107E (flexible tenancies).
- 15 After section 115A insert—
- “115B Meaning of “flexible tenancy”**
- (1) For the purposes of this Act, a flexible tenancy is a secure tenancy to which any of the following subsections applies.
- (2) This subsection applies to a secure tenancy if—
- (a) it was granted by a landlord in England for a fixed term of not less than two years,
- (b) it was granted before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force, and
- (c) before it was granted the person who became the landlord under the tenancy served a written notice on the person who became the tenant under the tenancy stating that the tenancy would be a flexible tenancy.
- (3) This subsection applies to a secure tenancy if—
- (a) it became a secure tenancy by virtue of a notice under paragraph 4ZA(2) of Schedule 1 (family intervention tenancies becoming secure tenancies),
- (b) the notice was given before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force,
- (c) the landlord under the family intervention tenancy in question was a local housing authority in England,
- (d) the family intervention tenancy was granted to a person on the coming to an end of a flexible tenancy under which the person was a tenant,

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- (e) the notice states that the tenancy is to become a secure tenancy that is a flexible tenancy for a fixed term of the length specified in the notice, and sets out the other express terms of the tenancy, and
 - (f) the length of the term specified in the notice is at least two years.
- (4) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of subsection (3) is that specified in the notice under paragraph 4ZA(2) of Schedule 1.
- (5) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection “statutory provision” means any provision made by or under an Act.
- (6) This subsection applies to a secure tenancy if—
- (a) it is created by virtue of section 137A of the Housing Act 1996 (introductory tenancies becoming flexible tenancies), or
 - (b) it arises by virtue of section 143MA or 143MB of that Act (demoted tenancies becoming flexible tenancies).”

115C Meaning of “old-style secure tenancy” in England

In this Part “old-style secure tenancy” means a secure tenancy of a dwelling-house in England that—

- (a) is a secure tenancy, other than a flexible tenancy, granted before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force,
- (b) is a secure tenancy granted on or after that date that contains an express term stating that it is an old-style secure tenancy, or
- (c) is a tenancy that arose by virtue of section 86 on the coming to an end of a secure tenancy within paragraph (a) or (b).”

- 16 (1) Section 117 (index of defined expressions) is amended as follows.
- (2) In the entry relating to flexible tenancies, for “section 107A” substitute “section 115B”.
- (3) At the appropriate place insert—

“old-style secure tenancy” section 115C”

- 17 (1) Schedule 1 (tenancies which are not secure tenancies) is amended as follows.
- (2) After paragraph 1 insert—

“Certain English tenancies that were not secure tenancies when originally granted

- 1ZA A tenancy of a dwelling-house in England cannot become a secure tenancy if—
- (a) it was granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force,
 - (b) it was not a secure tenancy or an introductory tenancy at the time it was granted, and

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- (c) it is a periodic tenancy or a tenancy for a fixed term of less than 2 years or more than 5 years.”

(3) In paragraph 4ZA, after sub-paragraph (2) insert—

“(2A) A notice under sub-paragraph (2) that relates to a tenancy of a dwelling-house in England must—

- (a) state that the tenancy is to become a secure tenancy for a fixed term of a length specified in the notice, and
- (b) set out the other express terms of the tenancy.

(2B) The length of the term specified in a notice in accordance with sub-paragraph (2A) must not be—

- (a) less than 2 years, or
- (b) more than the permitted maximum length.

(2C) The permitted maximum length is 10 years, unless sub-paragraph (2D) applies.

(2D) If the landlord has been notified in writing that a child aged under 9 will live in the dwelling-house, the permitted maximum length is the period—

- (a) beginning with the day on which the tenancy becomes a secure tenancy, and
- (b) ending with the day on which the child will reach the age of 19.

(2E) In deciding what length to specify in a notice under sub-paragraph (2A)(a) the landlord must have regard to any guidance given by the Secretary of State.

(2F) Where a notice is given in accordance with sub-paragraph (2A) the length of the secure tenancy, and the other terms, are those set out in the notice.

(2G) Sub-paragraphs (2A) to (2F) do not apply to notices given before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.”

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 95(1)(ia) inserted by [2023 c. 36 Sch. 1 para. 2](#)
- s. 100(7)(aa) inserted by [2023 c. 36 Sch. 1 para. 3](#)
- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)