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**Changes to legislation:** Family Law Act 1996, SCHEDULE 7 is up to date with all changes known to be in force on or before 08 May 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

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## SCHEDULES

### SCHEDULE 7

Section 53.

#### TRANSFER OF CERTAIN TENANCIES ON DIVORCE ETC. OR ON SEPARATION OF COHABITANTS

#### PART I

#### GENERAL

#### *Interpretation*

#### 1 In this Schedule—

[<sup>F1</sup>“civil partner”, except in paragraph 2, includes (where the context requires) former civil partner;]

“cohabitant”, except in paragraph 3, includes (where the context requires) former cohabitant;

[<sup>F2</sup>“the court” means the High Court or the family court,]

“landlord” includes—

(a) any person from time to time deriving title under the original landlord; and

(b) in relation to any dwelling-house, any person other than the tenant who is, or (but for Part VII of the <sup>M1</sup>Rent Act 1977 or Part II of the <sup>M2</sup>Rent (Agriculture) Act 1976) would be, entitled to possession of the dwelling-house;

“Part II order” means an order under Part II of this Schedule;

“a relevant tenancy” means—

(a) a protected tenancy or statutory tenancy within the meaning of the Rent Act 1977;

(b) a statutory tenancy within the meaning of the Rent (Agriculture) Act 1976;

(c) a secure tenancy within the meaning of section 79 of the <sup>M3</sup>Housing Act 1985; <sup>F3</sup> . . .

(d) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the <sup>M4</sup>Housing Act 1988; [<sup>F4</sup><sup>F5</sup> . . .

(e) an introductory tenancy within the meaning of Chapter I of Part V of the Housing Act 1996; [<sup>F6</sup>or]

(f) [<sup>F7</sup>an occupation contract within the meaning of the Renting Homes (Wales) Act 2016 (anaw 1) (see section 7).]

“spouse”, except in paragraph 2, includes (where the context requires) former spouse; and

“tenancy” includes sub-tenancy.]

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#### Textual Amendments

- F1** Sch. 7 para. 1: definition of "civil partner" inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 16\(2\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F2** Definition in Sch. 7 para. 1 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 145](#); S.I. 2014/954, [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3** Word in Sch. 7 para. 1(c) omitted (12.2.1997) by virtue of S.I. 1997/74, [art. 2](#), [Sch. para. 10\(b\)\(i\)](#)
- F4** Sch. 7 para. 1(e) and preceding word inserted (12.2.1997) by S.I. 1997/74, [art. 2](#), [Sch. para. 10\(b\)\(i\)](#)
- F5** Word in [Sch. 7 para. 1](#) omitted (1.12.2022) by virtue of [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), [24\(3\)\(a\)\(i\)](#)
- F6** Word in [Sch. 7 para. 1](#) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), [24\(3\)\(a\)\(ii\)](#)
- F7** Words in [Sch. 7 para. 1](#) inserted (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1166\)](#), regs. 1(1), [24\(3\)\(a\)\(iii\)](#)

#### Marginal Citations

- M1** 1977 c. 42.  
**M2** 1976 c. 80.  
**M3** 1985 c. 68.  
**M4** 1988 c. 50.

#### *Cases in which the court may make an order*

- 2 (1) This paragraph applies if one spouse [<sup>F8</sup>or civil partner] is entitled, either in his own right or jointly with the other spouse [<sup>F8</sup>or civil partner], to occupy a dwelling-house by virtue of a relevant tenancy.
- [<sup>F9</sup>(2) The court may make a Part II order—
- [<sup>F10</sup>(a) on making a divorce, nullity of marriage or judicial separation order or at any time after making such an order (whether, in the case of a divorce or nullity of marriage order, before or after the order is made final), or]
- (b) at any time when it has power to make a property adjustment order under Part 2 of Schedule 5 to the Civil Partnership Act 2004 with respect to the civil partnership.]

#### Textual Amendments

- F8** Words in [Sch. 7 para. 2\(1\)](#) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 16\(3\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F9** [Sch. 7 para. 2\(2\)](#) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 16\(4\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F10** [Sch. 7 para. 2\(2\)\(a\)](#) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 54\(2\)](#); S.I. 2022/283, [reg. 2](#)

- 3 (1) This paragraph applies if one cohabitant is entitled, either in his own right or jointly with the other cohabitant, to occupy a dwelling-house by virtue of a relevant tenancy.
- (2) If the cohabitants cease [<sup>F11</sup>to cohabit], the court may make a Part II order.

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### Textual Amendments

- F11** Words in Sch. 7 para. 3(2) substituted (5.12.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 42(2); S.I. 2005/3196, art. 2(c)

- 4 The court shall not make a Part II order unless the dwelling-house is or was—
- (a) in the case of spouses, a matrimonial home; <sup>F12</sup> . . .
  - [<sup>F13</sup>(aa) in the case of civil partners, a civil partnership home; or]
  - (b) in the case of cohabitants, a home in which they [<sup>F14</sup>cohabited].

### Textual Amendments

- F12** Word in Sch. 7 para. 4(a) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 261(4), 263, Sch. 9 para. 16(5), Sch. 30; S.I. 2005/3175, art. 2(1)(6), Sch. 1
- F13** Sch. 7 para. 4(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(5); S.I. 2005/3175, art. 2(1), Sch. 1
- F14** Words in Sch. 7 para. 4(b) substituted (5.12.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 42(3); S.I. 2005/3196, art. 2(e)

### *Matters to which the court must have regard*

- 5 In determining whether to exercise its powers under Part II of this Schedule and, if so, in what manner, the court shall have regard to all the circumstances of the case including—
- (a) the circumstances in which the tenancy was granted to either or both of the spouses [<sup>F15</sup>, civil partners] or cohabitants or, as the case requires, the circumstances in which either or both of them became tenant under the tenancy;
  - (b) the matters mentioned in section 33(6)(a), (b) and (c) and, where the parties are cohabitants and only one of them is entitled to occupy the dwelling-house by virtue of the relevant tenancy, the further matters mentioned in section 36(6)(e), (f), (g) and (h); and
  - (c) the suitability of the parties as tenants.

### Textual Amendments

- F15** Words in Sch. 7 para. 5(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(6); S.I. 2005/3175, art. 2(1), Sch. 1

## PART II

### ORDERS THAT MAY BE MADE

#### *References to entitlement to occupy*

- 6 References in this Part of this Schedule to a spouse [<sup>F16</sup>, a civil partner] or a cohabitant being entitled to occupy a dwelling-house by virtue of a relevant tenancy

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apply whether that entitlement is in his own right or jointly with the other spouse [F17, civil partner] or cohabitant.

#### Textual Amendments

- F16** Words in Sch. 7 para. 6 inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(7)(a); S.I. 2005/3175, art. 2(1), Sch. 1
- F17** Words in Sch. 7 para. 6 inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(7)(b); S.I. 2005/3175, art. 2(1), Sch. 1

#### *Protected, secure or assured tenancy or assured agricultural occupancy*

- 7 (1) If a spouse [F18, civil partner] or cohabitant is entitled to occupy the dwelling-house by virtue of a protected tenancy within the meaning of the <sup>M5</sup>Rent Act 1977, a secure tenancy within the meaning of the <sup>M6</sup>Housing Act 1985 [F19, an assured tenancy] or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 [F20, F21], [an introductory tenancy within the meaning of Chapter I of Part V of the Housing Act 1996][F22] or an occupation contract within the meaning of the Renting Homes (Wales) Act 2016 (anaw 1) (see section 7)], the court may by order direct that, as from such date as may be specified in the order, there shall, by virtue of the order and without further assurance, be transferred to, and vested in, the other spouse [F18, civil partner] or cohabitant—
- (a) the estate or interest which the spouse [F18, civil partner] or cohabitant so entitled had in the dwelling-house immediately before that date by virtue of the lease or agreement creating the tenancy and any assignment of that lease or agreement, with all rights, privileges and appurtenances attaching to that estate or interest but subject to all covenants, obligations, liabilities and incumbrances to which it is subject; and
- (b) where the spouse [F18, civil partner] or cohabitant so entitled is an assignee of such lease or agreement, the liability of that spouse [F18, civil partner] or cohabitant under any covenant of indemnity by the assignee express or implied in the assignment of the lease or agreement to that spouse [F18, civil partner] or cohabitant.
- (2) If an order is made under this paragraph, any liability or obligation to which the spouse [F18, civil partner] or cohabitant so entitled is subject under any covenant having reference to the dwelling-house in the lease or agreement, being a liability or obligation falling due to be discharged or performed on or after the date so specified, shall not be enforceable against that spouse [F18, civil partner] or cohabitant.
- [F23](3) If the spouse, civil partner or cohabitant so entitled is a successor within the meaning of Part 4 of the Housing Act 1985—
- (a) his former spouse (or, in the case of judicial separation, his spouse),
- (b) his former civil partner (or, if a separation order is in force, his civil partner), or
- (c) his former cohabitant,
- is to be deemed also to be a successor within the meaning of that Part.
- (3A) If the spouse, civil partner or cohabitant so entitled is a successor within the meaning of section 132 of the Housing Act 1996—

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- (a) his former spouse (or, in the case of judicial separation, his spouse),
- (b) his former civil partner (or, if a separation order is in force, his civil partner),  
or
- (c) his former cohabitant,

is to be deemed also to be a successor within the meaning of that section.

- (4) If the spouse, civil partner or cohabitant so entitled is for the purposes of section 17 of the Housing Act 1988 a successor in relation to the tenancy or occupancy—

- (a) his former spouse (or, in the case of judicial separation, his spouse),
- (b) his former civil partner (or, if a separation order is in force, his civil partner),  
or
- (c) his former cohabitant,

is to be deemed to be a successor in relation to the tenancy or occupancy for the purposes of that section.]

- (5) If the transfer under sub-paragraph (1) is of an assured agricultural occupancy, then, for the purposes of Chapter III of Part I of the Housing Act 1988—

- (a) the agricultural worker condition is fulfilled with respect to the dwelling-house while the spouse [<sup>F24</sup>, civil partner] or cohabitant to whom the assured agricultural occupancy is transferred continues to be the occupier under that occupancy, and
- (b) that condition is to be treated as so fulfilled by virtue of the same paragraph of Schedule 3 to the Housing Act 1988 as was applicable before the transfer.

- (6) <sup>F25</sup> .....

- [<sup>F26</sup>(7) If the spouse, civil partner or cohabitant so entitled is a priority successor within the meaning of section 75 of the Renting Homes (Wales) Act 2016 (anaw 1)—

- (a) the former spouse (or, in the case of judicial separation, the spouse),
- (b) the former civil partner (or, if a separation order is in force, the civil partner),  
or
- (c) the former cohabitant,

of the priority successor is to be deemed also to be a successor within the meaning of that section.]

#### Textual Amendments

- F18** Words in Sch. 7 para. 7(1)(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(8); S.I. 2005/3175, art. 2(1), Sch. 1
- F19** Words in Sch. 7 para. 7(1) substituted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 10(b)(ii)
- F20** Words in Sch. 7 para. 7(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 10(b)(ii)
- F21** Sch. 7 para. 7(1): comma substituted for word (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), 24(3)(b)(i)(aa)
- F22** Words in Sch. 7 para. 7(1) inserted (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), 24(3)(b)(i)(bb)
- F23** Sch. 7 para. 7(3)(3A)(4) substituted (5.12.2005) for Sch. 7 para. 7(3)(4) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(9); S.I. 2005/3175, art. 2(1), Sch. 1
- F24** Words in Sch. 7 para. 7(5)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(10); S.I. 2005/3175, art. 2(1), Sch. 1
- F25** Sch. 7 para. 7(6) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 261(4), 263, Sch. 9 para. 16(11), Sch. 30; S.I. 2005/3175, art. 2(1)(6), Sch. 1

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**F26** Sch. 7 para. 7(7) inserted (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **24(3)(b)(ii)**

**Marginal Citations**

**M5** 1977 c. 42.

**M6** 1985 c. 68.

*Statutory tenancy within the meaning of the Rent Act 1977*

- 8 (1) This paragraph applies if the spouse [F27, civil partner] or cohabitant is entitled to occupy the dwelling-house by virtue of a statutory tenancy within the meaning of the M7Rent Act 1977.
- (2) The court may by order direct that, as from the date specified in the order—
- (a) that spouse [F27, civil partner] or cohabitant is to cease to be entitled to occupy the dwelling-house; and
  - (b) the other spouse [F27, civil partner] or cohabitant is to be deemed to be the tenant or, as the case may be, the sole tenant under that statutory tenancy.
- (3) The question whether the provisions of paragraphs 1 to 3, or (as the case may be) paragraphs 5 to 7 of Schedule 1 to the Rent Act 1977, as to the succession by the surviving spouse [F28or surviving civil partner] of a deceased tenant, or by a member of the deceased tenant’s family, to the right to retain possession are capable of having effect in the event of the death of the person deemed by an order under this paragraph to be the tenant or sole tenant under the statutory tenancy is to be determined according as those provisions have or have not already had effect in relation to the statutory tenancy.

**Textual Amendments**

**F27** Words in Sch. 7 para. 8(1)(2)(a)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(12)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

**F28** Words in Sch. 7 para. 8(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(13)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

**Marginal Citations**

**M7** 1977 c. 42.

*Statutory tenancy within the meaning of the Rent (Agriculture) Act 1976*

- 9 (1) This paragraph applies if the spouse [F29, civil partner] or cohabitant is entitled to occupy the dwelling-house by virtue of a statutory tenancy within the meaning of the M8Rent (Agriculture) Act 1976.
- (2) The court may by order direct that, as from such date as may be specified in the order—
- (a) that spouse [F30, civil partner] or cohabitant is to cease to be entitled to occupy the dwelling-house; and
  - (b) the other spouse [F30, civil partner] or cohabitant is to be deemed to be the tenant or, as the case may be, the sole tenant under that statutory tenancy.

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- (3) A spouse [<sup>F31</sup>, civil partner] or cohabitant who is deemed under this paragraph to be the tenant under a statutory tenancy is (within the meaning of that Act) a statutory tenant in his own right, or a statutory tenant by succession, according as the other spouse [<sup>F31</sup>, civil partner] or cohabitant was a statutory tenant in his own right or a statutory tenant by succession.

#### Textual Amendments

**F29** Words in Sch. 7 para. 9(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(14); S.I. 2005/3175, art. 2(1), Sch. 1

**F30** Words in Sch. 7 para. 9(2)(a)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(14); S.I. 2005/3175, art. 2(1), Sch. 1

**F31** Words in Sch. 7 para. 9(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(14); S.I. 2005/3175, art. 2(1), Sch. 1

#### Marginal Citations

**M8** 1976 c. 80.

### PART III

#### SUPPLEMENTARY PROVISIONS

##### *Compensation*

- 10 (1) If the court makes a Part II order, it may by the order direct the making of a payment by the spouse [<sup>F32</sup>, civil partner] or cohabitant to whom the tenancy is transferred ( “the transferee”) to the other spouse [<sup>F32</sup>, civil partner] or cohabitant ( “the transferor”).
- (2) Without prejudice to that, the court may, on making an order by virtue of sub-paragraph (1) for the payment of a sum—
- direct that payment of that sum or any part of it is to be deferred until a specified date or until the occurrence of a specified event, or
  - direct that that sum or any part of it is to be paid by instalments.
- (3) Where an order has been made by virtue of sub-paragraph (1), the court may, on the application of the transferee or the transferor—
- exercise its powers under sub-paragraph (2), or
  - vary any direction previously given under that sub-paragraph,
- at any time before the sum whose payment is required by the order is paid in full.
- (4) In deciding whether to exercise its powers under this paragraph and, if so, in what manner, the court shall have regard to all the circumstances including—
- the financial loss that would otherwise be suffered by the transferor as a result of the order;
  - the financial needs and financial resources of the parties; and
  - the financial obligations which the parties have, or are likely to have in the foreseeable future, including financial obligations to each other and to any relevant child.

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- (5) The court shall not give any direction under sub-paragraph (2) unless it appears to it that immediate payment of the sum required by the order would cause the transferee financial hardship which is greater than any financial hardship that would be caused to the transferor if the direction were given.

#### Textual Amendments

**F32** Words in Sch. 7 para. 10(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(14); S.I. 2005/3175, art. 2(1), Sch. 1

#### Modifications etc. (not altering text)

- C1** Sch. 7 Pt. III para. 10 applied (1.10.1997) by 1984 c. 42, s. 22 (as substituted (1.10.1997) by 1996 c. 27, s. 66(1), Sch. 8 Pt. III para. 52 (with Sch. 9 paras. 8-10); S.I. 1997/1892, art. 3)
- C2** Sch. 7 para. 10 applied (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(4), 263, Sch. 7 para. 13(3); S.I. 2005/3175, art. 2(1), Sch. 1

#### *Liabilities and obligations in respect of the dwelling-house*

- 11 (1) If the court makes a Part II order, it may by the order direct that both spouses [<sup>F33</sup>, civil partners] or cohabitants are to be jointly and severally liable to discharge or perform any or all of the liabilities and obligations in respect of the dwelling-house (whether arising under the tenancy or otherwise) which—
- (a) have at the date of the order fallen due to be discharged or performed by one only of them; or
  - (b) but for the direction, would before the date specified as the date on which the order is to take effect fall due to be discharged or performed by one only of them.
- (2) If the court gives such a direction, it may further direct that either spouse [<sup>F34</sup>, civil partner] or cohabitant is to be liable to indemnify the other in whole or in part against any payment made or expenses incurred by the other in discharging or performing any such liability or obligation.

#### Textual Amendments

- F33** Words in Sch. 7 para. 11(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(15); S.I. 2005/3175, art. 2(1), Sch. 1
- F34** Words in Sch. 7 para. 11(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(16); S.I. 2005/3175, art. 2(1), Sch. 1

#### Modifications etc. (not altering text)

- C3** Sch. 7 Pt. III para. 11 applied (1.10.1997) by 1984 c. 42, s. 22 (as substituted (1.10.1997) by 1996 c. 27, s. 66(1), Sch. 8 Pt. III para. 52 (with Sch. 9 paras. 8-10); S.I. 1997/1892, art. 3)
- C4** Sch. 7 para. 11 applied (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(4), 263, Sch. 7 para. 13(3); S.I. 2005/3175, art. 2(1), Sch. 1



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*[<sup>F35</sup>Date when order made between spouses or civil partners takes effect]*

**Textual Amendments**

**F35** Sch. 7 para. 12: cross-heading substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(17); S.I. 2005/3175, art. 2(1), Sch. 1

[<sup>F36</sup>12 The date specified in a Part II order as the date on which the order is to take effect must not be earlier than—

- (a) in the case of a marriage in respect of which a [<sup>F37</sup>divorce or nullity of marriage order has been made,] the date on which the [<sup>F38</sup>order is made final];
- (b) in the case of a civil partnership in respect of which a dissolution or nullity order has been made, the date on which the order is made final.]

**Textual Amendments**

**F36** Sch. 7 para. 12 substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(17); S.I. 2005/3175, art. 2(1), Sch. 1

**F37** Words in Sch. 7 para. 12(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 54(3)(a); S.I. 2022/283, reg. 2

**F38** Words in Sch. 7 para. 12(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 54(3)(b); S.I. 2022/283, reg. 2

*[<sup>F39</sup>Effect of remarriage or subsequent civil partnership]*

**Textual Amendments**

**F39** Sch. 7 para. 13: cross-heading substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(18); S.I. 2005/3175, art. 2(1), Sch. 1

[<sup>F40</sup>13 (1) If after the [<sup>F41</sup>making of an order] dissolving or annulling a marriage either spouse remarries or forms a civil partnership, that spouse is not entitled to apply, by reference to the [<sup>F41</sup>making of that order,] for a Part II order.

(2) If after the making of a dissolution or nullity order either civil partner forms a subsequent civil partnership or marries, that civil partner is not entitled to apply, by reference to the making of that order, for a Part II order.

(3) In sub-paragraphs (1) and (2)—

- (a) the references to remarrying and marrying include references to cases where the marriage is by law void or voidable, and
- (b) the references to forming a civil partnership include references to cases where the civil partnership is by law void or voidable.]

**Textual Amendments**

**F40** Sch. 7 para. 13 substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 16(18); S.I. 2005/3175, art. 2(1), Sch. 1

*Changes to legislation: Family Law Act 1996, SCHEDULE 7 is up to date with all changes known to be in force on or before 08 May 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*

**F41** Words in Sch. 7 para. 13(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 54(4)**; S.I. 2022/283, reg. 2

*<sup>F42</sup>Inclusion of references to decrees in references to orders*

**Textual Amendments**

**F42** Sch. 7 para. 13A and cross-heading inserted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 54(5)**; S.I. 2022/283, reg. 2

- 13A In paragraphs 2 to 13—
- (a) a reference to a divorce order includes a decree of divorce;
  - (b) a reference to a nullity of marriage order includes a decree of nullity of marriage;
  - (c) a reference to a judicial separation order includes a decree of judicial separation;
  - (d) a reference to making includes granting;
  - (e) a reference to an order being made final includes a decree being made absolute.]

*Rules of court*

- 14 (1) Rules of court shall be made requiring the court, before it makes an order under this Schedule, to give the landlord of the dwelling-house to which the order will relate an opportunity of being heard.
- (2) Rules of court may provide that an application for a Part II order by reference to an order or decree may not, without the leave of the court by which that order was made or decree was granted, be made after the expiration of such period from the order or grant as may be prescribed by the rules.

**Modifications etc. (not altering text)**

- C5** Sch. 7 Pt. III para. 14(1) applied (1.10.1997) by 1984 c. 42, s. 22 (as substituted (1.10.1997) by 1996 c. 27, s. 66(1), Sch. 8 Pt. III para. 52 (with **Sch. 9 paras. 8-10**); S.I. 1997/1892, art. 3)
- C6** Sch. 7 para. 14(1) applied (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(4), 263, **Sch. 7 para. 13(3)**; S.I. 2005/3175, art. 2(1), Sch. 1

*Saving for other provisions of Act*

- 15 (1) If a spouse [<sup>F43</sup>or civil partner] is entitled to occupy a dwelling-house by virtue of a tenancy, this Schedule does not affect the operation of sections 30 and 31 in relation to the other [<sup>F44</sup>spouse's or civil partner's home rights].
- (2) If a spouse [<sup>F45</sup>, civil partner] or cohabitant is entitled to occupy a dwelling-house by virtue of a tenancy, the court's powers to make orders under this Schedule are additional to those conferred by sections 33, 35 and 36.

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**Changes to legislation:** Family Law Act 1996, SCHEDULE 7 is up to date with all changes known to be in force on or before 08 May 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](#)

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#### Textual Amendments

- F43** Words in Sch. 7 para. 15(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(19)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F44** Words in Sch. 7 para. 15(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(19)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F45** Words in Sch. 7 para. 15(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 16(20)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

**Changes to legislation:**

Family Law Act 1996, SCHEDULE 7 is up to date with all changes known to be in force on or before 08 May 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.

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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. 63(2)(k) inserted by [2021 c. 17 s. 52\(2\)](#)