

SCHEDULES

[^{F1}SCHEDULE 1A

STATUTORY OR STATUTORY ASSURED TENANTS BY SUCCESSION IN A CASE TO WHICH SECTION 3A(1) APPLIES]

Textual Amendments

F1 Schs. 1A, 1B inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(3), 52, **Sch. 6 Pt. I para. 1**

[^{F2}1 The provisions of paragraph 2 of this Schedule shall have effect for the purpose of determining who is the statutory tenant of a dwelling-house by succession after the death of the person (in this Schedule referred to as “the original tenant”) who, immediately before his death, was a protected tenant of the dwelling-house or the statutory tenant of it by virtue of his previous protected tenancy.]

Textual Amendments

F2 Schs. 1A, 1B inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(3), 52, **Sch. 6 Pt. I para. 1**

[^{F3}2 (1) The original tenant’s spouse [^{F4}or civil partner] where the dwelling-house was that spouse’s [^{F4}or civil partner’s] only or principal home at the time of the tenant’s death shall be the statutory tenant so long as the said spouse [^{F4}or civil partner] retains possession of the dwelling-house without being entitled to do so under a contractual tenancy.

(2) For the purposes of this paragraph, a person who was living with the original tenant as his or her wife or husband shall be treated as the spouse of the original tenant [^{F5}and a person who was living with the original tenant in a relationship which had the characteristics of the relationship between civil partners shall be treated as the civil partner of the original tenant] .

(3) If, immediately after the death of the original tenant, there is, by virtue of sub-paragraph (2) above, more than one person who fulfils the conditions in sub-paragraph (1) above, such one of them as then has occupancy rights under section 18 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (rights of cohabiting couples) [^{F6}or under section 101 of the Civil Partnership Act 2004] or, if neither or none of them has such rights, such one of them as may be decided by the sheriff, shall be treated as the surviving spouse [^{F6}, or as the case may be as the surviving civil partner,] for the purposes of this paragraph.]

Textual Amendments

F3 Schs. 1A, 1B inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(3), 52, **Sch. 6 Pt. I para. 1**

Changes to legislation: There are currently no known outstanding effects for the Rent (Scotland) Act 1984, Schedule 1A. (See end of Document for details)

- F4** Words in Sch. 1A para. 2(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 49(a); S.S.I. 2005/604, arts. 2(c), 4
- F5** Words in Sch. 1A para. 2(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 49(b); S.S.I. 2005/604, arts. 2(c), 4
- F6** Words in Sch. 1A para. 2(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), Sch. 28 para. 49(c); S.S.I. 2005/604, arts. 2(c), 4

- [^{F7}3 Where paragraph 2 above does not apply but a person who was a member of the original tenant’s family was residing with him in the dwelling-house—
- (a) continuously for the period commencing six months before the date of coming into force of section 46 of the Housing (Scotland) Act 1988 and ending on the tenant’s death (where the person was so residing on the said date); or
- (b) at the time of and for the period of two years immediately before the tenant’s death, then, after the tenant’s death, that person or if there is more than one such person such one of them as may be decided by agreement, or in default of agreement by the [^{F8}First-tier Tribunal], shall be entitled to a statutory assured tenancy of the dwelling-house by succession.]

Textual Amendments

- F7** Schs. 1A, 1B inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 46(3), 52, Sch. 6 Pt. I para. 1
- F8** Words in Sch. 1A para. 3 substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 1 para. 29(a); S.S.I. 2017/330, art. 3, sch.

- [^{F9}4 A person who becomes the statutory tenant of a dwelling-house by virtue of paragraph 2 above is in this Schedule referred to as “the first successor”.]

Textual Amendments

- F9** Schs. 1A, 1B inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 46(3), 52, Sch. 6 Pt. I para. 1

- [^{F10}5 If, immediately before his death, the first successor was still a statutory tenant, the provisions of paragraph 6 below shall have effect for the purpose of determining who is entitled to a statutory assured tenancy of the dwelling-house by succession after the death of the first successor.]

Textual Amendments

- F10** Schs. 1A, 1B inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 46(3), 52, Sch. 6 Pt. I para. 1

- [^{F11}6 Where a person who—
- (a) was a member of the original tenant’s family immediately before that tenant’s death; and
- (b) was a member of the first successor’s family immediately before the first successor’s death,
- was residing with the first successor in the dwelling-house at the time of, and for the period of two years immediately before, the first successor’s death, that person, or if there is more than one such person, such one of them as may be decided by

Changes to legislation: There are currently no known outstanding effects for the Rent (Scotland) Act 1984, Schedule 1A. (See end of Document for details)

agreement or, in default of agreement, by the ^{F12}First-tier Tribunal], shall be entitled to a statutory assured tenancy of the dwelling-house by succession.]

Textual Amendments

- F11** Schs. 1A, 1B inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(3), 52, **Sch. 6 Pt. I para. 1**
- F12** Words in [Sch. 1A para. 6](#) substituted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 29(b)**; S.S.I. 2017/330, art. 3, sch.

- ^{F137} (1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, “the original tenant” and “the first successor” in this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—
- (a) if the successor was the first successor, and immediately before his death he was still the tenant (whether protected or statutory), paragraph 6 above shall apply on his death;
 - (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.
- (2) Sub-paragraph (1) above applies even if—
- (a) a successor enters into more than one other tenancy of the dwelling-house; and
 - (b) both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.
- (3) In this paragraph “succession” means the occasion on which a person becomes the statutory or statutory assured tenant of a dwelling-house by virtue of this Schedule and “successor” shall be construed accordingly.]

Textual Amendments

- F13** Schs. 1A, 1B inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(3), 52, **Sch. 6 Pt. I para. 1**

- ^{F148} Paragraphs 5 and 6 above do not apply where the statutory tenancy of the original tenant arose by virtue of section 20 of the Rent Act ^{M1}1965.]

Textual Amendments

- F14** Schs. 1A, 1B inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 46(3), 52, **Sch. 6 Pt. I para. 1**

Marginal Citations

- M1** 1965 c. 75.

Changes to legislation:

There are currently no known outstanding effects for the Rent (Scotland) Act 1984, Schedule 1A.