

## SCHEDULES

### SCHEDULE 3

Section 20

#### EXCLUDED RESIDENTIAL TENANCY AGREEMENTS

##### *Social housing*

- 1 (1) An agreement that grants a right of occupation in social housing.
- (2) “Social housing” means accommodation provided to a person by virtue of a relevant provision.
- (3) “Relevant provision” means a provision of—
  - (a) in relation to England and Wales—
    - (i) Part 2 of the Housing Act 1985, or
    - (ii) Part 6 or 7 of the Housing Act 1996;
  - (b) in relation to Scotland, Part 1 or 2 of the Housing (Scotland) Act 1987;
  - (c) in relation to Northern Ireland—
    - (i) Chapter 4 of Part 2 of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)), or
    - (ii) Part 2 of the Housing (Northern Ireland) Order 1988 (S.I. 1988/1990 (N.I. 23)).
- (4) Accommodation provided to a person by virtue of a relevant provision includes accommodation provided in pursuance of arrangements made under any such provision.
- 2 (1) This paragraph applies for the purposes of paragraph 1.
- (2) An allocation of housing accommodation by a local housing authority in England to a person who is already—
  - (a) a secure or introductory tenant, or
  - (b) an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord,is to be treated as an allocation of housing accommodation by virtue of Part 6 of the Housing Act 1996 (and accordingly section 159(4A) of that Act is to be ignored).
- (3) An allocation of housing accommodation that falls within a case specified in, or prescribed under, section 160 of the Housing Act 1996 (cases where provisions about allocation under Part 6 of that Act do not apply) is to be treated as an allocation of housing accommodation by virtue of Part 6 of that Act (and accordingly that section is to be ignored).
- (4) An allocation of housing accommodation by virtue of Part 1 of the Housing (Scotland) Act 1987 is to be treated as provided by virtue of a relevant provision only if it is provided by a local authority within the meaning of that Act (or in pursuance of arrangements made under or for the purposes of that Part with a local authority).

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- (5) Accommodation provided to a person in Northern Ireland by a registered housing association is to be treated as provided to the person by virtue of a relevant provision.
- (6) Terms used in sub-paragraphs (2) and (3) have the same meanings as in Part 6 of the Housing Act 1996.
- (7) In sub-paragraph (5) “registered housing association” means a housing association, within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 ([S.I. 1992/1725 \(N.I. 15\)](#)), that is registered in the register of housing associations maintained under Article 14 of that Order.

#### *Care homes*

- 3 (1) An agreement that grants a right of occupation in a care home.
- (2) “Care home” means—
  - (a) in relation to England and Wales, an establishment that is a care home for the purposes of the Care Standards Act 2000;
  - (b) in relation to Scotland, accommodation that is provided as a care home service within the meaning of Part 5 of the Public Services Reform (Scotland) Act 2010;
  - (c) in relation to Northern Ireland, an establishment that is a residential care home, or a nursing home, for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 ([S.I. 2003/431 \(N.I. 9\)](#)).

#### *Hospitals and hospices*

- 4 (1) An agreement that grants a right of occupation of accommodation in a hospital or hospice.
- (2) “Hospital”—
  - (a) in relation to England, has the meaning given in section 275 of the National Health Service Act 2006;
  - (b) in relation to Wales, has the meaning given in section 206 of the National Health Service (Wales) Act 2006;
  - (c) in relation to Scotland, has the meaning given in section 108 of the National Health Service (Scotland) Act 1978;
  - (d) in relation to Northern Ireland, has the meaning given in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 ([S.I. 1972/1265 \(N.I. 14\)](#)).
- (3) “Hospice” means an establishment other than a hospital whose primary function is the provision of palliative care to persons resident there who are suffering from a progressive disease in its final stages.

#### *Other accommodation relating to healthcare provision*

- 5 (1) An agreement—
  - (a) under which accommodation is provided to a person as a result of a duty imposed on a relevant NHS body by an enactment, and
  - (b) which is not excluded by another provision of this Schedule.

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- (2) “Relevant NHS body” means—
- (a) in relation to England—
    - (i) a clinical commissioning group, or
    - (ii) the National Health Service Commissioning Board;
  - (b) in relation to Wales, a local health board;
  - (c) in relation to Scotland, a health board constituted by order made under section 2 of the National Health Service (Scotland) Act 1978;
  - (d) in relation to Northern Ireland, a Health and Social Services trust.

### *Hostels and refuges*

- 6 (1) An agreement that grants a right of occupation of accommodation in a hostel or refuge.
- (2) “Hostel” means a building which satisfies the following two conditions.
- (3) The first condition is that the building is used for providing to persons generally, or to a class of persons—
- (a) residential accommodation otherwise than in separate and self-contained premises, and
  - (b) board or facilities for the preparation of food adequate to the needs of those persons (or both).
- (4) The second condition is that any of the following applies in relation to the building—
- (a) it is managed by a registered housing association;
  - (b) it is not operated on a commercial basis and its costs of operation are provided wholly or in part by a government department or agency, or by a local authority;
  - (c) it is managed by a voluntary organisation or charity.
- (5) “Refuge” means a building which satisfies the second condition in sub-paragraph (4) and is used wholly or mainly for providing accommodation to persons who have been subject to any incident, or pattern of incidents, of—
- (a) controlling, coercive or threatening behaviour,
  - (b) physical violence,
  - (c) abuse of any other description (whether physical or mental in nature), or
  - (d) threats of any such violence or abuse.
- (6) In this paragraph—
- “government department” includes—
    - (a) any part of the Scottish Administration;
    - (b) a Northern Ireland department;
    - (c) the Welsh Assembly Government;
    - (d) any body or authority exercising statutory functions on behalf of the Crown;
  - “registered housing association” means—
    - (a) a private registered provider of social housing;
    - (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 or section 165 of the Housing (Scotland) Act 2010;

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(c) a housing association which is registered in a register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 ([S.I. 1992/1725 \(N.I. 15\)](#));

“voluntary organisation” means a body, other than a public or local authority, whose activities are not carried on for profit.

*Accommodation from or involving local authorities*

- 7 (1) An agreement—
- (a) under which accommodation is provided to a person as a result of a duty or relevant power that is imposed or conferred on a local authority by an enactment (whether or not provided by the local authority), and
  - (b) which is not excluded by another provision of this Schedule.
- (2) “Relevant power” means a power that is exercised for, or in connection with, a purpose of providing accommodation to a person who is homeless or is threatened with homelessness.
- (3) In sub-paragraph (2) the reference to a person who is homeless or is threatened with homelessness is to be read in accordance with—
- (a) in relation to England and Wales, section 175 of the Housing Act 1996;
  - (b) in relation to Scotland, section 24 of the Housing (Scotland) Act 1987;
  - (c) in relation to Northern Ireland, Article 3 of the Housing (Northern Ireland) Order 1988 ([S.I. 1988/1990 \(N.I. 23\)](#)).

*Accommodation provided by virtue of immigration provisions*

- 8 An agreement granting a right of occupation of accommodation that is provided to an individual by virtue of any of the following provisions of the Immigration and Asylum Act 1999—
- (a) section 4 (provision of accommodation to persons granted temporary admission etc);
  - (b) section 95 (provision of support to asylum seekers etc);
  - (c) section 98 (provision of temporary support to asylum seekers etc).

*Mobile homes*

- 9 An agreement to which the Mobile Homes Act 1983 applies.

*Tied accommodation*

- 10 (1) An agreement that grants a right of occupation of tied accommodation.
- (2) “Tied accommodation” means accommodation that is provided—
- (a) by an employer to an employee in connection with a contract of employment, or
  - (b) by a body providing training in a trade, profession or vocation to an individual in connection with that training.
- (3) In this paragraph “employer” and “employee” have the same meanings as in the Employment Rights Act 1996 (see section 230 of that Act).

### *Student accommodation*

- 11 (1) An agreement that grants a right of occupation in a building which—
- (a) is used wholly or mainly for the accommodation of students, and
  - (b) satisfies either of the following conditions.
- (2) The first condition is that the building is owned or managed by any of the following—
- (a) an institution within the meaning of paragraph 5 of Schedule 1 to the Local Government Finance Act 1992;
  - (b) a body that is specified in regulations made under Article 42(2A) of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28));
  - (c) a body established for charitable purposes only.
- (3) The second condition is that the building is a hall of residence.
- (4) In this paragraph and paragraph 12 “student”—
- (a) in relation to England and Wales or Scotland, has the same meaning as in paragraph 4 of Schedule 1 to the Local Government Finance Act 1992;
  - (b) in relation to Northern Ireland, means a person who satisfies such conditions as to education or training as may be specified in regulations made under Article 42(2A) of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)).
- 12 An agreement under which accommodation is provided to a student who has been nominated to occupy it by an institution or body of the kind mentioned in paragraph 11(2).

### *Long leases*

- 13 (1) An agreement that—
- (a) is, or is for, a long lease, or
  - (b) grants a right of occupation for a term of 7 years or more.
- (2) “Long lease” means—
- (a) in relation to England and Wales, a lease which is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 or which, in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be such a lease if the tenant’s total share (within the meaning given by that section) were 100 per cent;
  - (b) in relation to Scotland, has the meaning given by section 9(2) of the Land Registration (Scotland) Act 2012.
- (3) An agreement does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

### *Interpretation*

- 14 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Building” includes a part of a building.
- (3) “Enactment” includes—

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- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (4) “Local authority” means—
- (a) in relation to England—
    - (i) a county, district or parish council in England,
    - (ii) a London borough council,
    - (iii) the Common Council of the City of London in its capacity as a local authority, or
    - (iv) the Council of the Isles of Scilly;
  - (b) in relation to Wales, any county, county borough or community council in Wales;
  - (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - (d) in relation to Northern Ireland, a district council constituted under section 1 of the [Local Government Act \(Northern Ireland\) 1972 \(c. 9 \(N.I.\)\)](#).