

SCHEDULES

SCHEDULE 8

Section 120

SUCCESSION TO SECURE TENANCIES AND RELATED TENANCIES

Housing Act 1985 (c. 68)

- 1 The Housing Act 1985 is amended as follows.
- 2 In section 86 (periodic tenancy arising on termination of fixed term), after subsection (1B) (inserted by Schedule 7) insert—
 - “(1C) This section does not apply to a secure tenancy of a dwelling-house in England if—
 - (a) the original secure tenant has died,
 - (b) the tenancy has been vested in, or otherwise disposed of to, the current tenant in the course of the administration of the original tenant’s estate, and
 - (c) the current tenant qualified to succeed the original tenant under section 86G(2) or (4).”
- 3 (1) Section 86A (persons qualified to succeed: England) as inserted by the Localism Act 2011—
 - (a) is renumbered section 86G (so that it follows on from section 86F as inserted by Schedule 7 without making the numbering more complex than it has to be), and
 - (b) is amended as follows.(2) After subsection (7) insert—
 - “(8) This section applies to a tenancy that was granted before 1 April 2012, or that arose by virtue of section 86 on the coming to the end of a secure tenancy granted before 1 April 2012, as it applies to a secure tenancy granted on or after that day.”
- 4 In section 88 (cases where the tenant is a successor), in subsection (1), after paragraph (b) insert—
 - “(ba) the tenancy arose by virtue of section 89(2A) (fixed term tenancy arising in certain cases following succession to periodic tenancy), or”.
- 5 (1) Section 89 (succession to periodic tenancy) is amended as follows.
 - (2) In subsection (1A), for “section 86A” substitute “section 86G”.
 - (3) After subsection (2) insert—
 - “(2A) Where the tenancy vests in a person qualified to succeed the tenant under section 86G(2) or (4) and continues to be a secure tenancy—

Status: This is the original version (as it was originally enacted).

- (a) the periodic tenancy (“the old tenancy”) comes to an end immediately after vesting, and
 - (b) a new tenancy of the same dwelling-house arises by virtue of this subsection for a fixed term of 5 years.
- (2B) The parties and terms of a tenancy arising by virtue of subsection (2A) 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 for a fixed term of 5 years.
- (2C) Where a possession order was in force in relation to the old tenancy—
- (a) the possession order is to be treated, so far as possible, as if it applied in relation to the new tenancy, and
 - (b) any other court orders made in connection with the possession order are also to be treated, so far as possible, as if they applied in relation to the new tenancy.
- (2D) In subsection (2C) “possession order” means an order for possession of the dwelling house.”
- 6 In section 117 (index of defined expressions), in the entry relating to persons qualified to succeed, for “section 87” substitute “sections 86G and 87”.

Housing Act 1996 (c. 52)

- 7 Before section 131 (but after the italic heading) insert—

“130A Persons qualified to succeed to introductory tenancy: England

- (1) A person is qualified to succeed the tenant under an introductory tenancy of a dwelling-house in England if—
 - (a) the person occupies the dwelling-house as his or her only or principal home at the time of the tenant’s death, and
 - (b) the person is the tenant’s spouse or civil partner.
- (2) A person is qualified to succeed the tenant under an introductory tenancy of a dwelling-house in England if—
 - (a) at the time of the tenant’s death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
 - (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
 - (c) the person’s succession is in accordance with that term.
- (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 132.
- (4) In such a case, a person is qualified to succeed the tenant if—
 - (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
 - (b) the person’s succession is in accordance with that term.

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

- (5) For the purposes of this section a person who was living with the tenant as the tenant's wife or husband is to be treated as the tenant's spouse.
- (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b).
- (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated as the fulfilling that condition."
- 8 (1) Section 131 (persons qualified to succeed tenant) is amended as follows.
- (2) At the end of the heading for "tenant" substitute "to introductory tenancy: Wales".
- (3) After "introductory tenancy" insert "of a dwelling-house in Wales".
- 9 (1) Section 133 (succession to introductory tenancy) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where there is a person qualified to succeed the tenant under section 130A, the tenancy vests by virtue of this section—
- (a) in that person, or
- (b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.”
- (3) In subsection (2), after ““tenant” insert “under section 131”.
- 10 Before section 143H (but after the italic heading) insert—

“143GA Persons qualified to succeed to demoted tenancy: England

- (1) A person is qualified to succeed the tenant under a demoted tenancy of a dwelling-house in England if—
- (a) the person occupies the dwelling-house as his or her only or principal home at the time of the tenant's death, and
- (b) the person is the tenant's spouse or civil partner.
- (2) A person is qualified to succeed the tenant under a demoted tenancy of a dwelling-house in England if—
- (a) at the time of the tenant's death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
- (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
- (c) the person's succession is in accordance with that term.
- (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 132.
- (4) In such a case, a person is qualified to succeed the tenant if—
- (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and

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- (b) the person's succession is in accordance with that term.
- (5) For the purposes of this section a person who was living with the tenant as the tenant's wife or husband is to be treated as the tenant's spouse.
- (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b).
- (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated as fulfilling that condition.
- (8) This section applies to a tenancy that became a demoted tenancy before or after Schedule 8 of the Housing Act 2015 comes into force.

143GB Succession to demoted tenancy: England

- (1) This section applies if the tenant under a demoted tenancy of a dwelling-house in England dies.
- (2) Where there is a person qualified to succeed the tenant under section 143GA, the tenancy vests by virtue of this section—
 - (a) in that person, or
 - (b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.
- (3) Where a periodic demoted tenancy vests in a person qualified to succeed the tenant under section 143GA(2) or (4) and continues to be a demoted tenancy—
 - (a) the tenancy comes to an end immediately after vesting, and
 - (b) a new tenancy of the same dwelling-house arises by virtue of this subsection for a fixed term of 5 years.
- (4) The parties and terms of a tenancy arising by virtue of subsection (3) 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 for a fixed term of 5 years.
- (5) Where a demoted tenancy comes to an end and a new tenancy arises by virtue of subsection (3), as from that time the demotion order is to be treated for all purposes as it had been made in relation to the new tenancy (and the demotion period remains the same)."

- 11 (1) Section 143H (succession to demoted tenancy) is amended as follows.
 - (2) At the heading insert “: Wales”.
 - (3) In subsection (1), after “tenancy” insert “of a dwelling-house in Wales”.
- 12 In section 143I (no successor tenant: termination), after “section” insert “143GA or”.
- 13 (1) Section 143J of the Housing Act 1996 (demoted tenancies: successor tenants) is amended as follows.
 - (2) After subsection (3) insert—

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

“(3A) The tenancy arose by virtue of section 89(2A) of the Housing Act 1985.”

(3) For subsection (7) substitute—

“(7) A person is the successor to a demoted tenancy if—

- (a) the tenancy vests in the person by virtue of section 143GB(2) or 143H(4) or (5), or
- (b) the tenancy arose by virtue of section 143GB(3).”

Localism Act 2011 (c. 20)

- 14 In section 160 of the Localism Act 2011 (succession to secure tenancies), omit subsection (6).

Savings

- 15 The amendments made by this Schedule do not apply in relation to cases where the tenant under a secure tenancy dies before it comes into force.
- 16 The amendments made by paragraphs 7 and 8 do not apply in relation to an introductory tenancy granted before the day on which this Schedule comes into force.
- 17 The amendments made by paragraphs 10 to 13 do not apply in relation to cases where the tenant under a demoted tenancy dies before this Schedule comes into force.