

SCHEDULE 2

TRANSITIONAL AMENDMENTS

THE HOUSING (SCOTLAND) ACT 1988

5. In Part II of the Housing (Scotland) Act 1988 (rented accommodation) after section 25 there shall be inserted the following sections—

“Assured tenancies: transitional provisions

25A.—(1) This section applies in the case where an assured tenancy to which section 24 above applies, or an agreement relating to the tenancy, provides for the payment by the tenant to the landlord of sums in respect of council tax; and

- (a) the first anniversary of the date on which the rent has previously been increased (whether by agreement or by virtue of a notice under section 24(1) above or a determination under section 25) has not occurred; or
- (b) a notice is served before 1st April 1993 under section 24(1) above for the purpose of securing an increase in the rent but the new rent has not yet taken effect either by virtue of the notice or a determination under section 25 above.

(2) At any time before—

- (a) 1st April 1994; or
- (b) the first anniversary of the date when the existing rent took effect,

whichever is the earlier, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take account of any sums payable by the tenant to the landlord in respect of council tax and specifying a date when the new rent shall take effect.

(3) The date specified in subsection (2) above shall, unless either of the conditions mentioned in subsection (4) below applies, be a date not earlier than one month after the date of service of the notice under this section.

(4) The conditions referred to in subsection (3) above are that before the date specified in the notice—

- (a) the tenant by an application in the prescribed form refers the notice to a rent assessment committee; or
- (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(5) Nothing in this section or section 25B affects the right of the landlord and tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

(6) No more than one notice in respect of any tenancy may be served under this section.

Determination of rent by rent assessment committee where section 25A applies

25B.—(1) Where a tenant refers to a rent assessment committee a notice under section 25A, the committee shall determine the amount by which the existing rent might reasonably be increased to take into account the tenant’s liability to make payments to the landlord in respect of council tax.

(2) A determination under subsection (1) above shall, unless the landlord and tenant otherwise agree, have effect—

- (a) from the date specified in the notice under section 25A(2); or

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- (b) if it appears to the committee that such effect would cause undue hardship to the tenant, from such later date (being not later than the date of the determination) as the committee may direct.
- (3) In any case where—
- (a) a rent assessment committee have before them at the same time a section 24 reference and a section 25A reference relating to the same tenancy; and
 - (b) the date specified in the notice under section 24(1) is not later than the date specified in the notice under section 25A; and
 - (c) the committee propose to hear the two references together,
- the committee shall make a determination in relation to the section 24 reference before making their determination in relation to the section 25A reference.
- (4) In any case where paragraphs (a) and (c), but not paragraph (b), of subsection (3) above are satisfied—
- (a) the committee shall make a determination in relation to the section 24 reference before the section 25A reference; and
 - (b) the rent determined for the purposes of the section 25A reference shall take effect from the date specified in the notice given under that section.
- (5) In this section—
- (a) “section 24 reference” means the reference of a notice under section 24(1);
 - (b) “section 25A reference” means the reference of a notice under section 25A; and
 - (c) “rent” has the same meaning as in section 25.
- (6) Section 25(2) applies to a determination under this section as it applies to a determination under that section.”.