



# Housing Rents and Subsidies (Scotland) Act 1975

1975 CHAPTER 28

*Private sector housing*

**7 Phasing of rent increases where rent for dwelling-house under regulated tenancy is registered**

(1) Subject to the following provisions of this section, and to section 9 of this Act, where a rent for a dwelling-house under a regulated tenancy is registered (whether before or after the commencement of this Act), the rent for any rental period (whether contractual or statutory), beginning after the commencement of this Act and during the period of delay imposed in terms of Schedule 2 to this Act, may only be increased to the extent permitted in terms of that Schedule ; and accordingly—

- (a) any notice of increase under section 21 (2) (b) of the 1971 Act; or
- (b) any tenancy agreement, or any rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act,

served or made before or after such commencement, which purports to increase the rent payable at any time during that period above that permitted at that time in terms of that Schedule, shall have effect to increase the rent to the extent so permitted but no further.

(2) This section shall not apply to the rent under any regulated tenancy of a dwelling-house which was granted after the commencement of this Act and after the date of registration of the rent if the person to whom it was granted was neither the tenant under any previous regulated tenancy of that dwelling-house nor any person who might have succeeded such a tenant as a statutory tenant of the dwelling-house.

(3) This section shall not apply to any rent (whether registered before or after the commencement of this Act) which is subject to phasing under section 63 of the 1972 Act as applied by paragraph 14(2)(c) of Schedule 3 to the Housing Act 1974 (certain housing association, etc., tenancies).

(4) The following provisions shall cease to have effect—

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- (a) section 79 of the 1971 Act and Schedule 13 thereto;
- (b) section 37 of the 1972 Act and Schedule 6 thereto.

- (5) Nothing in this section or in Schedule 2 to this Act shall prevent or limit an increase in any sums included in a rent which are variable by virtue of section 43(4) of the 1971 Act (variable rents).
- (6) Schedule 2 to this Act shall have effect; and, unless the context otherwise requires, any expression used in this section or in Schedule 2 to this Act which is also used in Part III or IV of the 1971 Act shall have the same meaning as in those Parts.

## **8 Limitation of rent increases under rent agreement where no rent is registered for dwelling-house under regulated tenancy**

- (1) Without prejudice to section 9 of this Act, where no rent is registered for a dwelling-house under a regulated tenancy (whether granted before or after the commencement of this Act), the rent payable in any contractual period beginning after such commencement may not be increased, by virtue of any rent agreement (whether made before or after such commencement), above the appropriate maximum amount specified in this section.
- (2) In the case of any rent agreement which took effect before the commencement of this Act, the maximum amount to which the rent may be increased in terms of subsection (1) above is, for a rental period which begins—
  - (a) during the year beginning with the commencement of this Act, or
  - (b) during a subsequent year beginning with an anniversary of such commencement,
 the amount which, for the last rental period beginning before the relevant year referred to in head (a) or (b) above, was payable by way of rent, having regard to the provisions of any enactment, plus £1.50 per week.
- (3) In the case of any rent agreement which takes effect on or after the commencement of this Act, the maximum amount to which the rent may be increased in terms of subsection (1) above is, for a rental period which begins—
  - (a) during the first year of the period beginning with the date when the rent agreement takes effect, or
  - (b) during a subsequent year beginning with an anniversary of that date,
 the amount which, for the last rental period beginning before the relevant year referred to in head (a) or (b) above, was payable by way of rent, having regard to the provisions of any enactment, plus £1.50 per week.
- (4) There shall be disregarded for the purposes of this section such part of any increase of rent (in a case where any rates in respect of the dwelling-house are borne by the landlord) as corresponds to any increase in the rates so borne, ascertained in accordance with Schedule 4 to the 1971 Act.
- (5) Any rent agreement made before or after the commencement of this Act which purports to increase the rent payable thereunder at any time above that permitted at that time under this section shall have effect to increase the rent to the extent so permitted but no further.
- (6) Paragraph 9 of Schedule 2 to this Act shall apply for the purposes of this section as it applies for the purposes of that Schedule.

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- (7) The Secretary of State may by order substitute, for the sum of £1.50 mentioned in subsections (2) and (3) above, a sum other than that sum.
- (8) An order under subsection (7) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that subsection.
- (9) In this section, "rent agreement" means a rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, and, unless the context otherwise requires, any expression used in this section which is also used in Part III or IV of the 1971 Act shall have the same meaning as in those Parts.

## **9 Annual limit on private sector rent increases**

- (1) Notwithstanding any registration of a rent, or any rent agreement, which (in either case) permits the rent of a dwelling-house to be increased above the existing amount payable under a registration or rent agreement, the total of the rent payable under a regulated tenancy in a relevant period shall not, by virtue of a notice of increase or rent agreement taking effect at or after the commencement of this Act, be increased by more than £78 above the rent which would be payable in a period of twelve months at the rate at which it was payable for the last rental period beginning before the relevant period ; and sections 7 and 8 of this Act shall have effect accordingly in relation to the rent payable for any rental period beginning at or after such commencement.
- (2) In this section, "relevant period " means—
  - (a) in a case where the rent previously payable as aforesaid was in respect of a rent registered before the commencement of this Act, the period of 12 months beginning with such commencement, or any subsequent period of 12 months beginning with the anniversary of such commencement;
  - (b) in a case where the rent previously payable as aforesaid was in respect of a rent registered after such commencement, the period of 12 months beginning with the date of such registration, or any subsequent period of 12 months beginning with the anniversary of that date ;
  - (c) in a case where the rent previously payable as aforesaid was payable under a rent agreement in force before or after the commencement of this Act, the period of 12 months beginning with the date when the last increase (before or after such commencement) took effect under that agreement, or any subsequent period of 12 months beginning with the anniversary of that date.
- (3) This section shall not affect any increase in respect of a service element within the meaning of Schedule 2 to this Act.
- (4) The Secretary of State may by order substitute, for the sum of £78 mentioned in subsection (1) above, a sum other than that sum.
- (5) An order under subsection (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that subsection.
- (6) Any notice of increase under section 21(2)(b) of the 1971 Act or any rent agreement which purports to increase the rent payable at any time above that permitted at that time in terms of this section shall have effect to increase the rent to the extent so permitted but no further.

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- (7) The provisions of section 7(2), (3) and (5) and section 8(4) and (9) of this Act and of paragraphs 9 and 10 of Schedule 2 thereto shall apply for the purposes of this section as they apply for the purposes of those sections.

## **10 Termination of decontrol of controlled tenancy by reference to rateable value etc.**

- (1) No controlled tenancy of a dwelling-house shall cease to be a controlled tenancy by reference to—
- (a) the rateable value of the dwelling-house in terms of section 34 of the 1972 Act;
  - (b) the occurrence of any event which, in terms of section 35(2) of that Act, would, but for the enactment of this section, have made the said section 34 applicable to the dwelling-house,
- whether or not an application for the registration of a rent has, before the commencement of this Act, been made by virtue of section 38 of the 1972 Act at a time when the dwelling-house was let on or subject to a controlled tenancy; and accordingly, sections 34, 35 and 38 of the 1972 Act shall cease to have effect.
- (2) Where an application for the registration of a rent has, before the commencement of this Act, been made by virtue of section 38 of the 1972 Act at a time when the dwelling-house was let on or subject to a controlled tenancy which would, but for the enactment of subsection (1) above, have ceased to be a controlled tenancy under section 34 of that Act—
- (a) no rent shall, after such commencement, be registered in pursuance of such an application ; and
  - (b) any rent which has, before such commencement, been registered in pursuance of such an application shall be deemed to have been deleted from the register, and shall be of no effect.
- (3) In this section—
- (a) " registration " means registration under Part IV of the 1971 Act and " registered " and " register " shall be construed accordingly; and
  - (b) other expressions have the same meanings as in the 1971 Act.

## **11 Increases of rent under controlled tenancy permitted towards cost of repairs**

- (1) Subject to the following provisions of this section, where repairs have been carried out to a dwelling-house let on or subject to a controlled tenancy, or where repairs have been carried out to any premises, whether or not they include the dwelling-house, which benefit the dwelling-house, the rent limit under the controlled tenancy of the dwelling-house, for rental periods occurring after the completion of the repairs, shall be increased by 12J per cent, per annum of the amount expended on the repairs by the landlord or any superior landlord or any person from whom the landlord or the superior landlord derives title, but the rent of such a dwelling-house may only be increased by virtue of this subsection by the service of a notice of increase under section 58 of the 1971 Act.
- (2) To the extent to which benefit from the carrying out of repairs to the dwelling-house or premises mentioned in subsection (1) above accrues to premises other than the dwelling-house, the reference in the said subsection (1) to the amount expended on the repairs shall be construed as a reference to only so much of that amount (if any) as may be determined, by agreement in writing between the landlord and the tenant, or by the sheriff, to be properly apportionable to the dwelling-house, having regard to

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any benefit accruing to the dwelling-house and to the other premises from the carrying out of the repairs.

- (3) Where a grant has been paid, or is payable, towards the cost of the repairs under any of the relevant enactments, the references in subsections (1) and (2) above to the amount expended on the repairs shall be construed as references to that amount as diminished by the amount of the grant.
- (4) The sheriff may order the cancellation or reduction of any increase sought or paid by virtue of subsection (1) above on the ground—
  - (a) that the repairs in question were unnecessary; or
  - (b) that a greater amount was expended upon them than was reasonable,but no such order shall be made on the ground that the repairs were unnecessary in any case where the repairs were carried out in pursuance of a notice under section 24 of the Housing (Scotland) Act 1969 or where a grant has been paid, or is payable, towards the cost of the repairs under any of the relevant enactments.
- (5) Sections 122(1) and 123(1) of the 1971 Act shall apply in relation to any application to the sheriff for the purpose of subsection (2) or (4) above as if this section were a section of that Act referred to in section 123(3) thereof; and any determination or order under subsection (2) or (4) above may be made so as to relate to any rental period, whether before or after the date of such determination or order.
- (6) In this section—

" relevant enactments " means—

  - (a) Part II of the Housing (Financial Provisions) (Scotland) Act 1968; and
  - (b) Part I of the Housing (Scotland) Act 1974;and any other expression which is also used in Part V of the 1971 Act shall have the same meaning as in that Part.
- (7) This section does not apply to—
  - (a) any repairs completed before the commencement of this Act; or
  - (b) any repairs which, as between the tenant and the landlord, the tenant is under an express liability to carry out.

## **12 Eligibility for housing association grant and revenue deficit grant**

The fact that a housing association is a society registered under the Industrial and Provident Societies Act 1965 and that its rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the grant or assignation of tenancies to persons other than members shall not render it ineligible for housing association grant under section 29 of the Housing Act 1974 or for revenue deficit grant under section 32 of that Act.

## **13 Continuation of right to recover excess rent, etc., under Counter-Inflation Orders**

- (1) Article 5 of the Counter-Inflation (Residential Rents—Private Sector) (Scotland) Order 1974 (recovery of excess rent) shall continue to have effect, for the purposes of that Order and of the Counter-Inflation (Residential Rents—Private Sector) (Scotland) No. 2 Order 1974, so as to enable a tenant to recover rent at any time when he is able

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to recover it in terms of that Article, whether or not Part II of the Counter-Inflation Act 1973 (under which the Orders were made) is in force.

- (2) Article 8 of the Order first mentioned (jurisdiction of sheriff) shall continue to have effect, for the purpose of both of the said Orders, in respect of any proceedings commenced before the expiry of a period of two years commencing on 16th May 1975, whether or not Part II of the said Act of 1973 is in force.
- (3) Section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply in relation to the said Orders, as continued in effect by virtue of this section, as it applies in relation to an enactment which is repealed by another Act.