



Rent Act 1977

1977 CHAPTER 42

PART VI

RENT LIMIT FOR DWELLINGS LET BY HOUSING ASSOCIATIONS, HOUSING TRUSTS AND THE HOUSING CORPORATION

Registration of rents

86 Tenancies to which Part VI applies

- (1) In this Part of this Act "housing association tenancy" means a tenancy to which this Part of this Act applies.
- (2) This Part of this Act applies to a tenancy where—
 - (a) the interest of the landlord under that tenancy belongs to a housing association or housing trust, or to the Housing Corporation, and
 - (b) the tenancy would be a protected tenancy but for section 15 or 16 of this Act, and is not a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.
- (3) In this Part of this Act "housing association" has the meaning assigned to it for the purposes of the Housing Act 1957 by section 189(1) of that Act, except that it does not include any association which is a registered society within the meaning of section 74 of the Industrial and Provident Societies Act 1965 and whose rules—
 - (a) restrict membership to persons who are tenants or prospective tenants of the association, and
 - (b) preclude the granting or assigning of tenancies to persons other than members.
- (4) In this Part of this Act "housing trust" means a corporation or body of persons which—
 - (a) is required by the terms of its constituent instrument to devote the whole of its funds, including any surplus which may arise from its operations, to the following purposes, that is to say, the provision of houses for persons the majority of whom are in fact members of the working classes, and other purposes incidental thereto; or

- (b) is required by the terms of its constituent instrument to devote the whole or substantially the whole of its funds to charitable purposes and in fact devotes the whole or substantially the whole of its funds to the purposes set out in paragraph (a) of this subsection.
- (5) In subsection (4) above " house " includes—
- (a) any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith; and
 - (b) any part of a building which is occupied or intended to be occupied as a separate dwelling.

87 Rents to be registrable

- (1) There shall be a part of the register under Part IV of this Act in which rents may be registered for dwelling-houses which are let, or are, or are to be, available for letting, under a housing association tenancy.
- (2) In relation to that part of the register the following (and no other) provisions of this Act:—
- (a) sections 67, 69 and 70,
 - (b) section 71, except subsection (3), and
 - (c) Schedules 11 and 12,
- shall apply in relation to housing association tenancies, and in their application to such tenancies shall have effect as if for any reference in those provisions to a regulated tenancy there were substituted a reference to a housing association tenancy.
- (3) Registration in that part of the register shall take effect on the date of registration (subject to paragraph 10 of Schedule 24 to this Act).
- (4) From the date of registration any previous registration of a rent for the dwelling-house shall cease to have effect.
- (5) Where by virtue of subsection (4) of section 67 of this Act (as modified by subsection (2) above)—
- (a) an application is made before the expiry of the period of 3 years referred to in subsection (3) of that section, and
 - (b) a new rent is registered before the expiry of that period of 3 years,
- the references in subsections (3) and (4) above, in subsections (2) and (3) of section 89, and the last reference in section 90(2), of this Act, to the date of registration shall be construed as references to the first day after the expiry of that period of 3 years.
- (6) A rent registered in any part of the register for a dwelling-house which becomes, or ceases to be, one subject to a housing association tenancy, shall be as effective as if it were registered in any other part of the register.

Rent limit

88 Rent limit

- (1) Where the rent payable under a tenancy would exceed the rent limit determined in accordance with this Part of this Act, the amount of the excess shall be irrecoverable from the tenant.

- (2) Where a rent for the dwelling-house is registered, then, subject to sections 89 and 90 of this Act, the rent limit is the rent so registered.
- (3) Where any rates in respect of the dwelling-house are borne by the landlord, or a superior landlord, the amount of those rates for any rental period, ascertained in accordance with Schedule 5 to this Act, shall be added to the limit imposed by subsection (2) above, and in this Part of this Act references to the amount of the registered rent include any amount to be added under this subsection.
- (4) Where no rent for the dwelling-house is registered, then, subject to subsection (5) below, the rent limit shall be determined as follows:—
 - (a) if the lease or agreement creating the tenancy was made before 1st January 1973, the rent limit is the rent recoverable under the tenancy, as varied by any agreement made before that date (but not as varied by any later agreement);
 - (b) if paragraph (a) above does not apply, and, not more than 3 years before the tenancy began, the dwelling-house was subject to another tenancy (whether before 1973 or later) the rent limit is the rent recoverable under that other tenancy (or, if there was more than one, the last of them) for the last rental period thereof;
 - (c) if paragraphs (a) and (b) above do not apply, the rent limit is the rent payable under the terms of the lease or agreement creating the tenancy (and not the rent so payable under those terms as varied by any subsequent agreement).
- (5) The reference in subsection (4)(b) above to another tenancy includes, in addition to a housing association tenancy, a regulated tenancy—
 - (a) which subsisted at any time after 1st April 1975; and
 - (b) under which, immediately before it came to an end, the interest of the landlord belonged to a housing association.
- (6) Where for any period there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne in the rental period on which the rent limit is based, the rent limit under this Part of this Act shall be increased or decreased by the amount of the difference.
- (7) A tenancy commencing (whether before or after the coming into force of this Act) while there is in operation a condition imposed under any of the following enactments:—
 - (a) section 2 of the Housing (Financial Provisions) Act 1924;
 - (b) section 3 of the Housing (Financial Provisions) Act 1938 or section 46(1) of the Housing (Financial Provisions) Act 1958;
 - (c) section 23 of the Housing Act 1949; and
 - (d) section 3 of the Housing Act 1952 or section 104(3) of the Housing Act 1957;(which impose rent limits on tenancies of subsidised private houses) shall be disregarded for the purposes of subsection (4)(b) above in determining the rent limit under any subsequent tenancy of the dwelling-house.

89 Phasing of progression to registered rent

- (1) This section applies where a rent is registered for a dwelling-house (whether it is the first or any subsequent registration) unless at the date of registration there is no tenant and no person to whom a tenancy has been granted.

- (2) The rent limit shall progress from the rent limit immediately before the date of registration to the registered rent in stages, and—
- (a) for any rental period beginning in the first stage, the rent limit shall be the rent limit immediately before the date of registration plus £075 per week, or the registered rent, whichever is the less ;
 - (b) for any rental period beginning in the second or any subsequent stage, the rent limit shall be the rent payable for the first rental period of the last previous stage plus £0.75 per week, or the registered rent, whichever is the less.
- (3) The first stage shall last for 52 weeks from the date of registration, or from the beginning of the first rental period for which the rent is first increased (by any amount) on or after that date, whichever is the later.
- (4) Any subsequent stage shall last 52 weeks from the end of the last previous stage, or from the beginning of the first rental period for which the rent is first increased (by any amount) after the end of the last previous stage, whichever is the later.
- (5) If a tenancy of the dwelling-house is granted at any time when—
- (a) the rent limit is less than the registered rent, and
 - (b) the tenant is neither the person who, at the time when the previous tenancy (or the last previous tenancy) ended, was the tenant under that tenancy nor a member of that tenant's family who resided with him,
- the registered rent shall become the rent limit from the beginning of the new tenancy, and the stages by which the rent limit was to progress shall terminate.
- (6) The registration of a lower or higher rent during the progression from the rent limit in force before the prior registration shall not alter the stages by which the rent limit is to progress.
- (7) If a higher rent is registered in the 52 weeks beginning with the first rental period for which the rent is increased up to the rent registered on the prior registration, the first stage in the progression from that rent up to the later registered rent shall not begin until the end of that period of 52 weeks.
- (8) If for any rental period beginning after the date of registration there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne immediately before the date of registration, any limit imposed by this section for that rental period shall be increased or decreased by the amount of the difference, but not so as to enable any rent to be increased above the rent limit under section 88 of this Act.
- (9) An increase of rent made solely to reflect an increase in the amount of rates borne by the landlord or a superior landlord shall be disregarded for the purposes of subsections (3) and (4) above.

90 Previous rent limit exceeding registered rent: special rent limit

- (1) Where the rent limit for a dwelling-house immediately before the date of registration of a rent for that dwelling-house exceeded the rent so registered, the registration shall be provisional only until it takes effect in accordance with this section.
- (2) If—
- (a) no application is made under this section to the Secretary of State before—

- (i) the expiration of a period of 28 days beginning with the date of registration or,
 - (ii) where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, and it is lower than the rent for which it is substituted, the expiration of a period of 28 days beginning with the date of registration of the substituted rent, or
 - (b) an application duly made to the Secretary of State under this section is refused, the registration shall cease to be provisional, and shall take effect as from the date of registration.
- (3) The Secretary of State may, on an application made to him within the relevant period of 28 days mentioned in subsection (2)(a) above, grant the application and direct that the rent limit for the dwelling-house shall be such amount as is specified in the direction, being an amount not more than the said previous rent limit, but more than the rent which is provisionally registered.
- The Secretary of State may include in a direction under this subsection such conditions as he thinks fit, and if any condition is not complied with the direction shall cease to have effect.
- (4) The period for which the direction has effect shall begin with the date of the provisional registration, and the date when, subject to subsection (5) and (6) below, that period is to end shall be specified in the direction, being a date not more than 3 years and 6 months from the date of the provisional registration.
- (5) The direction shall cease to have effect—
- (a) if on a subsequent application for registration a different rent is registered for the dwelling-house, and that rent is equal to or exceeds the rent specified in the direction, or
 - (b) the rent assessment committee determine a rent in substitution for the rent registered by the rent officer, and that rent is equal to or exceeds the rent specified in the direction, or
 - (c) the applicant ceases to be the landlord of the dwelling-house.
- (6) Subject to subsection (5) above, if on the date specified as the end of the period under subsection (4) above a subsequent application for registration is pending, the direction shall continue in force until that application has been disposed of by the rent officer.
- (7) When the period for which a direction has effect ends, and the provisional registration is not superseded by a new registration under subsection (5)(a) or (b) above, the registration shall cease to be provisional and except for the purposes of section 67 of this Act shall take effect at the time when the period ends.
- (8) The rent officer shall notify the tenant of any case where a registration is by virtue of this section a provisional registration.
- (9) This section applies whether the registration mentioned in subsection (1) above is the first or any subsequent registration and, in the case of a subsequent registration, whether or not the rent limit immediately before the date of registration was that fixed by a direction under this section.
- (10) A confirmation of a rent by the rent officer shall be treated for the purposes of this section as a registration of a rent which, whether or not it is a provisional registration, supersedes the registration in force prior to the confirmation.

91 Special rent limit: procedure on application

- (1) An application under section 90 of this Act shall be in such form as the Secretary of State may direct either generally or in any particular case, and the applicant shall give notice of the application to the rent officer, and shall take all reasonable steps to give notice of the application to the tenant of each dwelling-house which would be affected by a direction given on the application.
- (2) The Secretary of State in entertaining the application—
 - (a) shall take into consideration the information about the finances of the applicant given to him on the application, and any further information given by the applicant at his request, and
 - (b) shall not give a direction unless he is satisfied that the direction is necessary having regard to the applicant's normal sources of income, and to the expenditure (including loan charges) which in his opinion it is reasonable for the applicant to incur in the exercise of housing functions.
- (3) The Secretary of State shall give notice in writing of his decision on the application to the applicant and to the rent officer and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.
- (4) The rent officer shall note in the register—
 - (a) any application notified to him by the applicant, and
 - (b) any direction given and the period for which it is effective, and
 - (c) any decision of the Secretary of State not to grant an application.
- (5) The applicant shall take all reasonable steps to notify the tenant of each dwelling-house affected of any case where the Secretary of State decides to grant or not to grant an application and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.
- (6) In this section—

" housing functions " means constructing, improving or managing or facilitating or encouraging the construction or improvement of dwellings, the provision of dwellings by conversion and the acquisition of dwellings, and includes functions which are supplemental or incidental to any of those functions,

" loan charges " includes any loan charges made by a housing association (including charges for debt management) whether in respect of borrowing from any capital fund kept by the housing association, or in respect of borrowing between accounts kept by the housing association for different functions, or otherwise.

Conversion to regulated tenancies

92 Conversion of housing association tenancies into regulated tenancies

- (1) If at any time, by virtue of subsections (1) and (3) of section 15 of this Act, a tenancy ceases to be one to which this Part of this Act applies and becomes a protected tenancy, that tenancy shall be a regulated tenancy and the housing association which is the landlord under that tenancy shall give notice in writing to the tenant, in such form as may be prescribed, informing him that his tenancy is no longer excluded from protection under this Act.

- (2) If, without reasonable excuse, a housing association fails to give notice to a tenant under subsection (1) above within the period of 21 days beginning on the day on which his tenancy becomes a protected tenancy, the association shall be liable to a fine not exceeding £100.
- (3) Where an offence under subsection (2) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (4) Schedule 14 to this Act shall have effect for supplementing this section.
- (5) In this section—
 - " housing association " has the same meaning as in section 189(1) of the Housing Act 1957 ; and
 - " prescribed " means prescribed by order made by the Secretary of State.
- (6) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) An order under this section may be varied or revoked by a subsequent order.

Miscellaneous

93 Increase of rent without notice to quit

- (1) Subject to subsections (2) and (3) below, where a housing association tenancy is a weekly or other periodical tenancy, the rent payable to the housing association or, as the case may be, the housing trust or the Housing Corporation (in this section called "the landlord") may, without the tenancy being terminated, be increased with effect from the beginning of any rental period by a written notice of increase given by the landlord to the tenant—
 - (a) not later than 4 weeks before the beginning of the rental period (or any earlier date on which the payment of rent in respect of that period falls to be made), and
 - (b) not later than the time when a notice to quit would have to be served if it were to be effective to terminate the tenancy at the beginning of the said rental period.
- (2) Where notice of increase is given under subsection (1) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice given by the tenant in accordance with the provisions (express or implied) of the tenancy and—
 - (a) the notice to terminate the tenancy is given before the end of the period of 2 weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
 - (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice given by the tenant on the last day of that period.

- (3) A notice of increase under subsection (1) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, notice to terminate the tenancy must be received by the landlord and the tenancy be made to terminate.
- (4) This section shall apply to a tenancy notwithstanding that the letting took place before the coming into force of this Act.
- (5) Nothing in this section shall authorise any rent to be increased above the rent limit, and any reference in section 88 of this Act to the variation by agreement of the rent recoverable under a tenancy shall include a reference to variation under this section.

94 Recovery from landlord of sums paid in excess of recoverable rent, etc.

- (1) Where a tenant has paid on account of rent any amount which, by virtue of this Part of this Act, is irrecoverable by the landlord, the tenant who paid it shall be entitled to recover that amount from the landlord who received it or his personal representatives.
- (2) Any amount which a tenant is entitled to recover under subsection (1) above may, without prejudice to any other method of recovery, be deducted by the tenant from any rent payable by him to the landlord.
- (3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of 2 years from the date of payment.
- (4) Any person who, in any rent book or similar document, makes an entry showing or purporting to show any tenant as being in arrears in respect of any sum on account of rent which is irrecoverable by virtue of this Part of this Act shall be liable to a fine not exceeding £50, unless he proves that, at the time of the making of the entry, the landlord had a bona fide claim that the sum was recoverable.
- (5) If, where any such entry has been made by or on behalf of any landlord, the landlord on being requested by or on behalf of the tenant to do so, refuses or neglects to cause the entry to be deleted within 7 days, the landlord shall be liable to a fine not exceeding £50, unless he proves that, at the time of the neglect or refusal to cause the entry to be deleted, he had a bona fide claim that the sum was recoverable.

95 Duty of landlord to supply statement of rent under previous tenancy

- (1) Where the rent payable under a tenancy is subject to the rent limit specified in section 88(4)(b) of this Act, the landlord shall, on being so requested in writing by the tenant, supply him with a statement in writing of the rent which was payable for the last rental period of the other tenancy referred to in that subsection.
- (2) If, without reasonable excuse, a landlord who has received such a request—
 - (a) fails to supply the statement referred to in subsection (1) above within 21 days of receiving the request, or
 - (b) supplies a statement which is false in any material particular,
 he shall be liable on a first conviction to a fine not exceeding £50 and, on a second or subsequent conviction, to a fine not exceeding £100.
- (3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect

on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

96 Supplemental

- (1) Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the date of registration shall be deemed for the purposes of this Part of this Act to be the date on which the rent determined by the rent officer was registered.
- (2) A landlord shall not by virtue of subsection (1) above be entitled to recover any rent for a rental period beginning before the date when the rent determined by the rent assessment committee was registered.
- (3) A county court shall have jurisdiction, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question as to the rent limit under this Part of this Act, or as to any matter which is or may become material for determining any such question.
- (4) In ascertaining for the purposes of this Part of this Act whether there is any difference with respect to rents or rates between one rental period and another (whether of the same tenancy or not) or the amount of any such difference, any necessary adjustments shall be made to take account of periods of different lengths.
- (5) For the purposes of such an adjustment a period of one month shall be treated as equivalent to one-twelfth of a year and a period of a week as equivalent to one-fifty-second of a year.

97 Interpretation of Part VI

- (1) In this Part of this Act, except where the context otherwise requires—
 - " housing association ", " housing association tenancy " and " housing trust "
 - have the meanings assigned to them by section 86 of this Act; and
 - " tenancy " means a housing association tenancy.
- (2) In this Part of this Act references to registration are, subject to section 87(5) of this Act and unless the context otherwise requires, references to registration pursuant to section 87.
- (3) It is hereby declared that any power of giving directions conferred on the Secretary of State by this Part of this Act includes power to vary or revoke directions so given.