



Rent (Scotland) Act 1984

1984 CHAPTER 58

PART VII

PART VII CONTRACTS

62 Registration areas for purposes of Part VII

- (1) The registration areas for the purposes of this Part of this Act shall be the districts and islands areas.
- (2) The Secretary of State may after consultation with the local authority or local authorities concerned, make directions—
 - (a) as to the groupings of registration areas, or parts there of, or
 - (b) deeming any part of a registration area to be a separate registration area.
- (3) Where the Secretary of State made a direction under subsection (2) above which came into force on 16th May 1975, he shall be deemed to have consulted the local authority or local authorities concerned for the purposes of that subsection if he has consulted either the existing or the new local authority or local authorities before that date.
- (4) Any reference in this Part of this Act to a registration area shall include a reference to a grouping of registration areas or parts thereof and any area deemed to be a separate registration area by virtue of a direction under subsection (2)(b) above.

63 Part VII contracts

- (1) Subject to the following provisions of this section, this Part of this Act applies to a contract, whether entered into before or after the commencement of this Act, whereby one person grants to another person, in consideration of a rent which includes payment for the use of furniture or for services, the right to occupy as a residence a dwelling-house to which this Part of this Act applies.
- (2) Subject to subsection (3) below, a contract falling within subsection (1) above and relating to a dwelling-house which consists of only part of a house is a contract to which this Part of this Act applies whether or not the lessee is entitled, in addition to

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exclusive occupation of that part, to the use in common with any other person of other rooms or accommodation in the house.

- (3) Subject to subsection (5) below, this Part of this Act does not apply—
- (a) to a contract under which the interest of the lessor belongs to Her Majesty in right of the Crown, or to a government department, or is held in trust for Her Majesty for the purposes of a government department; nor
 - (b) to a contract entered into on or after 3rd October 1980, where the interest of the lessor belongs to one of the bodies mentioned in subsection (4) below ; nor
 - (c) to a contract for the letting of any dwelling-house at a rent which includes payment in respect of board if the value of the board to the lessee forms a substantial proportion of the whole rent; nor
 - (d) to a contract which creates a regulated tenancy ; nor
 - (e) to a contract which created a controlled tenancy if that tenancy subsequently becomes a converted tenancy within the meaning of section 115(1) below.
- (4) The bodies referred to in subsection (3)(b) above are—
- (a) an islands or district council, or a joint board or joint committee of an islands or district council or the common good of an islands or district council, or any trust under the control of an islands or district council;
 - (b) a development corporation established by an order made, or having effect as if made, under the New Towns (Scotland) Act 1968 ;
 - (c) the Scottish Special Housing Association ;
 - (d) the Housing Corporation ;
 - (e) a registered housing association within the meaning of the Housing Act 1974 ;
 - (f) a housing co-operative within the meaning of section 5 of the Housing Rents and Subsidies (Scotland) Act 1975; and
 - (g) any housing trust which was in existence on 13th November 1953 or any authorised society within the meaning of the Housing Act 1914.
- (5) An interest belonging to Her Majesty in right of the Crown shall not prevent this Part of this Act from applying to a contract if the interest is under the management of the Crown Estate Commissioners.
- (6) No right to occupy a dwelling-house for a holiday shall be treated for the purposes of this Part of this Act as a right to occupy it as a residence.
- (7) A contract to which this Part of this Act applies is, in the following provisions of this Part of this Act, referred to as a " Part VII contract".

64 Dwelling-houses to which Part VII applies

- (1) Subject to the following provisions of this section this Part of this Act applies to any dwelling-house the rateable value of which on the appropriate day did not or, as the case may be, does not exceed £200, or in the case of a dwelling-house comprising or forming part of lands and heritages for which a rateable value is or was first shown on the valuation roll on or after 1st April 1978, £600.
- (2) In relation to dwelling-houses comprising or forming part of lands and heritages for which a rateable value is or was first shown on the valuation roll on or after 1st April 1978, the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament increase the said

sum of £600 in subsection (1) above, and he may make different provision for different classes of case.

- (3) The Secretary of State may by order under this section provide that, as from such date as may be specified in the order, this Part of this Act shall not apply to a dwelling-house the rateable value of which on such day as may be specified in the order exceeds such amount as may be so specified.
- (4) An order under subsection (3) above—
 - (a) may be made so as to relate to the whole of Scotland or to such area in Scotland as may be specified in the order, and so as to apply generally or only to, or except to, such classes or descriptions of dwelling-houses as may be specified in the order; and
 - (b) may contain such transitional provisions as appear to the Secretary of State to be desirable.
- (5) The power to make an order under subsection (3) above shall be exercisable by statutory instrument and no such order shall have effect unless it is approved by a resolution of each House of Parliament.
- (6) For the purposes of this section, in relation to a dwelling-house which is not separately rated, "rateable value" means such proportion of the rateable value of the premises of which the dwelling-house forms part as may be determined to reflect the relationship between the value of the dwelling-house and the value of the said premises—
 - (a) by agreement in writing between the lessor and lessee ; or
 - (b) failing such agreement, by the sheriff, on a summary application by either party.

65 Reference of contracts to rent assessment committees and obtaining by them of information

- (1) Either the lessor or the lessee under a Part VII contract or the local authority may refer the contract to the rent assessment committee for the area in question.
- (2) Where a Part VII contract is referred to a rent assessment committee under subsection (1) above they may, by notice in writing served on the lessor, require him to give to them, within such period (which shall not be less than seven days from the date of the service of the notice.) as may be specified in the notice, such information as they may reasonably require regarding such of the prescribed particulars relating to the contract as are specified in the notice.
- (3) If, within the period specified in a notice under subsection (2) above, the lessor fails without reasonable cause to comply with the provisions of the notice he shall be liable to a fine not exceeding level 3 on the standard scale.

66 Powers of rent assessment committees on reference of contracts

- (1) Where a Part VII contract is referred to a rent assessment committee and the reference is not, before the committee have entered upon consideration of it, withdrawn by the party or the local authority who made it, the committee shall consider it and then, after making such inquiry as they think fit and giving to each party to the contract and, if the dwelling-house is or forms part of a dwelling-house to which section 23 of the Housing (Financial Provisions) (Scotland) Act 1972 applies, to the local authority, an

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opportunity of being heard or, at his or their option, of submitting representations in writing, the committee, subject to subsection (2) below,—

- (a) may approve the rent payable under the contract, or
 - (b) may reduce or increase the rent to such sum as they may, in all the circumstances, think reasonable, or
 - (c) may, if they think fit in all the circumstances, dismiss the reference,
- and shall notify the parties and the local authority of their decision.
- (2) On the reference of a Part VII contract relating to a dwelling-house for which a rent is registered under Part V of this Act, the committee may not reduce the rent payable under the contract below the amount which would be recoverable from the tenant under a regulated tenancy of the dwelling-house.
 - (3) An approval, reduction or increase under this section may be limited to rent payable in respect of a particular period.
 - (4) Where the rent under a Part VII contract has been registered under section 67 below, a rent assessment committee shall not be required to entertain a reference, made otherwise than by the lessor and the lessee jointly, for the registration of a different rent for the dwelling-house concerned before the expiry of the period of three years beginning on the date on which the rent was last considered by the committee, except on the ground that, since that date, there has been such a change in the condition of the dwelling-house, the furniture or services provided, the terms of the contract or any other circumstances taken into consideration when the rent was last considered as to make the registered rent no longer a reasonable rent.

67 Register of rents under Part VII contracts

- (1) The rent assessment committee shall keep a register and shall make the register available for inspection in such place or places and in such manner as the Secretary of State may direct.
- (2) The committee shall cause to be entered in the register, with regard to any contract under which a rent is payable which has been approved, reduced or increased under section 66 above—
 - (a) the prescribed particulars with regard to the contract;
 - (b) a specification of the dwelling-house to which the contract relates; and
 - (c) the rent as approved, reduced or increased by the committee, and, in a case in which the approval, reduction or increase is limited to rent payable in respect of a particular period, a specification of that period.
- (3) Where any rates in respect of a dwelling-house are borne by the lessor, the amount to be entered in the register under this section as the rent payable for the dwelling-house shall be the same as if the rates were not so borne; but the fact that they are so borne shall be noted in the register.
- (4) A document purporting to be a certificate signed by the clerk or other authorised officer of the committee relating to any entry in the register under subsection (2) above shall, until the contrary is shown, be deemed to have been signed by such clerk or other officer, and shall be sufficient evidence of the matters contained in the entry in the register.
- (5) Any entry in a register (hereinafter referred to as " the old register ")

- (a) which was kept under section 89 of the Rent (Scotland) Act 1971 before 16th May 1975, or
- (b) which is kept for any area which ceases to be a registration area as a result of the establishment of a new registration area,

which relates to a dwelling-house which is situated in a new registration area shall be deemed for the purposes of this Part of this Act to be an entry in the register kept under this section for that new registration area.

- (6) The old register shall be kept by such committee and made available for inspection in such place or places and in such manner as the Secretary of State may direct; and subsection (4) above shall apply to any entry in the old register which is deemed to be an entry in the register kept for a new registration area.
- (7) In this section " new registration area " means a registration area established under Part VII of the Rent (Scotland) Act 1971 or this Part of this Act on or after 16th May 1975.

68 Reconsideration of rent after registration

Where the rent payable for any dwelling-house has been entered in the register under section 67 above then, subject to section 66(4) above, the lessor or the lessee or the local authority may refer the case to the rent assessment committee for reconsideration of the rent so entered.

69 Effect of registration of rent

- (1) Where the rent payable for any dwelling-house is entered in the register under section 67 above, it shall not be lawful to require or receive on account of rent for that dwelling-house under a Part VII contract payment of any amount in excess of the rent so registered in respect of any period subsequent to the date of the entry or, where a particular period is specified in the register, in respect of that period.
- (2) Where subsection (3) of section 67 above applies, the amount entered in the register under that section shall be treated for the purposes of this section as increased for any rental period by the amount of the rates for that period ascertained in accordance with Schedule 3 to this Act.
- (3) Where any payment has been made or received in contravention of this section, the amount of the excess shall be recoverable by the person by whom it was paid.
- (4) Any person who requires or receives any payment in contravention of this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both ; and
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding six months or to both ;

and, without prejudice to any other method of recovery, the court by which a person is found guilty of an offence under this subsection may order the amount paid in excess to be repaid to the person by whom the payment was made.

70 Cancellation of entries in register at instance of landlord

- (1) Where a rent has been registered under section 67 above but the dwelling-house has ceased to be subject to a Part VII contract, an application to a rent assessment

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committee may be made by the landlord in accordance with this section for the cancellation of the registration.

- (2) An application under this section shall not be entertained before the expiry of three years from the date when the registration of the rent takes effect in accordance with section 67 above.
- (3) On an application under subsection (1) above the committee shall, where subsections (1) and (2) above are complied with, cancel the registration, and shall make an entry in the register noting the cancellation and the date from which the cancellation takes effect.
- (4) The president of the panel set up under Schedule 4 to this Act may, if he thinks fit, direct that in considering applications made under subsection (1) above, the chairman sitting alone may exercise the functions of a rent assessment committee.
- (5) An application under this section shall be in the prescribed form and contain the prescribed particulars.
- (6) The committee shall notify the applicant of its decision to grant or to refuse any application under this section and, where it grants the application, of the date from which the cancellation takes effect.

71 Notice to quit served after reference of contract to rent assessment committee

- (1) If, after a Part VII contract has been referred to a rent assessment committee by the lessee or the local authority under section 65 or 68 above, a notice to quit the dwelling-house to which the contract relates is served by the lessor on the lessee at any time before the decision of the committee is given or within the period of six months thereafter, then, subject to subsection (2) and sections 73 and 74 below, the notice shall not take effect before the expiry of that period.
- (2) In a case falling within subsection (1) above,—
 - (a) the committee may, if they think fit, direct that a shorter period shall be substituted for the period of six months specified in that subsection; and
 - (b) if the reference to the committee is withdrawn, the period during which the notice to quit is not to take effect shall end on the expiry of seven days from the withdrawal of the reference.

72 Application to rent assessment committee for security of tenure where notice to quit is served

- (1) Subject to sections 73 and 74(3) below, where—
 - (a) a notice to quit a dwelling-house which is the subject of a Part VII contract has been served, and
 - (b) the Part VII contract has been referred to a rent assessment committee under section 65 or 68 above (whether before or after the service of the notice to quit) and the reference has not been withdrawn, and
 - (c) the period at the end of which the notice to quit takes effect (whether by virtue of the contract, of section 71 above or of this section) has not expired,
 the lessee may apply to the committee for the extension of the period referred to in paragraph (c) above.

- (2) Where an application is made under this section, the notice to quit to which the application relates shall not have effect before the determination of the application unless the application is withdrawn.
- (3) On an application under this section, the committee, after making such inquiry as they think fit and giving to each party an opportunity of being heard or at his option, of submitting representations in writing, may direct that the notice to quit shall not have effect until the end of such period, not exceeding six months from the date on which the notice to quit would have effect apart from the direction, as may be specified in the direction.
- (4) If the committee refuse to give a direction under this section,—
 - (a) the notice to quit shall not have effect before the expiry of seven days from the determination of the application; and
 - (b) no subsequent application under this section shall be made in relation to the same notice to quit.
- (5) On coming to a determination on an application under this section, the committee shall notify the parties of their determination.

73 Notices to quit served by owner-occupiers

Where a person who has occupied a dwelling-house as a residence (in this section referred to as "the owner-occupier") has, by virtue of a Part VII contract, granted the right to occupy the dwelling-house to another person and—

- (a) at or before the time when the right was granted or, if it was granted before 8th December 1965, not later than 7th June 1966) the owner-occupier has given notice in writing to that other person that he is the owner-occupier within the meaning of this section, and
- (b) if the dwelling-house is part of a house, the owner-occupier does not occupy any other part of the house as his residence,

neither section 71 nor section 72 above shall apply where a notice to quit the dwelling-house is served if, at the time the notice is to take effect, the dwelling-house is required as a residence for the owner-occupier or any member of his family who resided with him when he last occupied the dwelling-house as a residence.

74 Reduction of period of notice on account of lessee's default

- (1) The provisions of this section apply where a Part VII contract has been referred to a rent assessment committee and the period at the end of which a notice to quit will take effect has been determined by section 71 above or extended under section 72 above.
- (2) If, in a case where this section applies, it appears to the committee, on an application made by the lessor for a direction under this section,—
 - (a) that the lessee has not complied with the terms of the contract, or
 - (b) that the lessee or any person residing or lodging with him has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers or has been convicted of using the dwelling-house, or allowing the dwelling-house to be used, for an immoral or illegal purpose, or
 - (c) that the condition of the dwelling-house has deteriorated owing to any act or neglect of the lessee or any person residing or lodging with him, or

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(d) that the condition of any furniture provided for the use of the lessee under the contract had deteriorated owing to any ill-treatment by the lessee or any person residing or lodging with him,
the committee may direct that the period referred to in subsection (1) above shall be reduced so as to end at a date specified in the direction.

- (3) No application may be made under section 72 above with respect to a notice to quit if a direction has been given under this section reducing the period at the end of which the notice is to take effect.

75 Power of sheriff, in action for possession, to reduce period of notice to quit

In any case where—

- (a) a notice to quit a dwelling-house which is the subject of a Part VII contract has been served, and
- (b) the period at the end of which the notice to quit takes effect is for the time being extended by virtue of section 71 or section 72 above, and
- (c) at some time during that period the lessor institutes proceedings before the sheriff for possession of the dwelling-house, and
- (d) in those proceedings the sheriff is satisfied that any of paragraphs (a) to (d) of section 74(2) above applies,

the sheriff may direct that the period referred to in paragraph (b) above shall be reduced so as to end at a date specified in the direction.

76 Notice to quit relating to later Part VII contracts

- (1) This section applies to Part VII contracts entered into on or after 1st December 1980.
- (2) Where this section applies, sections 71 to 75 above shall not apply, but in any proceedings for possession the sheriff may, if he thinks fit, postpone the date of possession for a period, which shall not exceed three months.
- (3) A postponement under subsection (2) above may be made subject to such conditions regarding payment of outstanding rent or other conditions as the sheriff thinks fit.

77 Jurisdiction of rent assessment committees

Where a Part VII contract is referred to a rent assessment committee under this Part of this Act and—

- (a) the contract relates to a dwelling-house consisting of or comprising part only of lands and heritages, and
- (b) no apportionment of the rateable value of the lands and heritages has been made under section 7 above,

then, unless the lessor in the course of the proceedings requires that such an apportionment shall be made and, within two weeks of making the requirement, brings proceedings in the sheriff court for the making of the apportionment, the committee shall have jurisdiction to deal with the reference if it appears to them that, had the apportionment been made, they would have had jurisdiction.

78 Publication of information

The local authority shall have power to publish information regarding the provisions of this Part of this Act.

79 Rent book to be provided

- (1) Where rent is payable weekly under a Part VII contract, it shall be the duty of the lessor to provide a rent book or other similar document for use in respect of the dwelling-house, containing particulars of the rent and of the other terms and conditions of the contract.
- (2) If at any time the lessor fails to comply with the requirements of this section he, and any person who on his behalf demands or receives rent under the contract, shall be liable to a fine not exceeding level 4 on the standard scale.

80 Regulations

- (1) The Secretary of State may by statutory instrument make regulations—
 - (a) with regard to the tenure of office of chairmen and other members of rent assessment committees ;
 - (b) with regard to proceedings before rent assessment committees under this Part of this Act;
 - (c) prescribing anything which is required by this Part of this Act to be prescribed;
 - (d) prescribing the form of, and the information to be contained in, any rent book or other similar document required by section 79(1) above to be provided; and
 - (e) generally for carrying into effect the provisions of this Part of this Act.
- (2) Any statutory instrument making regulations under subsection (1)(d) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

81 Interpretation of Part VII

- (1) In this Part of this Act, unless the context otherwise requires.—
 - " dwelling-house " means a house or part of a house;
 - " lessee " means the person to whom is granted, under a Part VII contract, the right to occupy the dwelling in question as a residence and includes any person directly or indirectly deriving title from the grantee ;
 - " lessor " means the person who, under a Part VII contract, grants to another the right to occupy the dwelling in question as a residence and includes any person directly or indirectly deriving tide from the grantor;
 - " register " means the register kept by a rent assessment committee in pursuance of section 67 above ;
 - " rental period " means a period in respect of which a payment of rent falls to be made;
 - " services " includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a dwelling-house.
- (2) References in this Part of this Act to a party to a contract include references to any person directly or indirectly deriving title from such a party.

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- (3) Where separate sums are payable by the lessee of any dwelling-house to the lessor for any two or more of the following, namely—
- (a) occupation of the dwelling-house,
 - (b) use of furniture, and
 - (c) services,

any reference in this Part of this Act to "rent" in relation to that dwelling-house is a reference to the aggregate of those sums and, where those sums are payable under separate contracts, those contracts shall be deemed to be one contract.