



Housing (Financial Provisions) (Scotland) Act 1972

1972 CHAPTER 46

PART V

CONTROLLED AND REGULATED TENANCIES

Registration of rent for regulated tenancies

38 Early application for registration of rent

- (1) Subject to the provisions of this section, any application for the registration of a rent under section 40 of the Act of 1971 may be made at a time when the dwelling-house is let on or subject to a controlled tenancy, if the application is made not earlier than six months before the date applicable to the dwelling-house under section 34 of this Act.
- (2) Where an application is made by virtue of this section the regulated tenancy for which the rent is registered shall be assumed to be a tenancy on the same terms (other than terms relating to rent) as the terms applicable to the controlled tenancy.
- (3) Where a rent is registered on an application made by virtue of this section—
 - (a) the date from which the registration takes effect under section 44(1) of the Act of 1971 shall not be earlier than the date applicable to the dwelling-house under section 34 of this Act, and
 - (b) in a case where the rent is registered before the said applicable date, any reference in this Act, or in the Act of 1971 or in any other enactment to the date of registration shall be deemed to be a reference to the date from which the registration takes effect.

39 Cancellation of registration of rent

In the Act of 1971 after section 44 there shall be inserted the following section—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (1) Where a rent agreement is made in writing as respects a dwelling-house for which a rent is registered, an application may be made in accordance with this section for the cancellation of the registration.
- (2) The application shall be made jointly by the landlord and the tenant under the agreement to the rent officer, and the application shall not be entertained before the expiry of three years from the relevant date as defined in section 40(4) of this Act.
- (3) An application under this section must be in the prescribed form and contain the prescribed particulars, and must be accompanied by a copy of the rent agreement.
- (4) The Secretary of State may make regulations under section 46 of this Act prescribing the procedure on an application under this section.
- (5) If the rent officer is satisfied that the rent payable under the rent agreement does not exceed a fair rent for the dwelling-house, he shall, subject to subsection (6) below, cancel the registration, and he shall make an entry in the register of that fact and of the date from which the cancellation takes effect.
- (6) Where under the terms of the rent agreement the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord, the rent officer shall not cancel the registration unless he is satisfied that those terms are reasonable.
- (7) The cancellation of the registration shall be without prejudice to a further registration of a rent at any time after cancellation.
- (8) The rent officer shall notify the applicants of his decision to grant, or to refuse, any application under this section and, where he grants the application, of the date from which the cancellation takes effect.
- (9) In this section " rent agreement " means—
 - (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or
 - (b) where a regulated tenancy is terminated, and a new regulated tenancy is granted at a rent exceeding the rent under the previous tenancy, the grant of the new tenancy."

40 Certain amounts to be separately noted on the register

Section 43 of the Act of 1971 (amount to be registered as rent) shall have effect as if after subsection (1) there were inserted the following subsections—

- “(1A) Subject to subsection (1B) below, there shall be noted on the register the amount, if any, of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the use of furniture or the provision of services or to the use of part of the premises comprised in a dwelling-house as a shop or office or for business, trade or professional purposes.
- (1B) It shall not be necessary to note on the register under subsection (1A) above any amount which in the opinion of the rent officer or, as the case may be, the rent assessment committee is negligible.”