

Status: Point in time view as at 03/09/2007.

Changes to legislation: There are currently no known outstanding effects for the Rent (Scotland) Act 1984, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

APPLICATIONS FOR REGISTRATION OF RENTS

PART I

APPLICATIONS UNSUPPORTED BY CERTIFICATE OF FAIR RENT

Procedure on applications to rent officer

- 1 On receiving any application for the registration of a rent, the rent officer may, by notice in writing served on the landlord or the tenant (whether or not the applicant or one of the applicants), require him to give to the rent officer, within such period of not less than 14 days from the service of the notice as may be specified in the notice, such information as he may reasonably require regarding such of the particulars contained in the application as may be specified in the notice.
- 2 Where the application is made by the landlord alone the rent officer shall serve on the tenant, and where it is made by the tenant alone he shall serve on the landlord, a notice informing him of the application and specifying a period of not less than 14 days from the service of the notice during which representations in writing may be made to the rent officer against the registration of the rent specified in the application.
- 3 (1) Where—
 - (a) the application is made jointly by the landlord and the tenant, or
 - (b) no representations are made as mentioned in paragraph 2 above,and it appears to the rent officer, after making such inquiry, if any, as he thinks fit and considering any information supplied to him in pursuance of paragraph 1 above, that the rent specified in the application is a fair rent, he may register that rent without further proceedings.
- (2) Where the rent officer registers a rent under this paragraph he shall notify the landlord and tenant accordingly.
- 4 Where the rent officer, in carrying out his functions under this Part of this Schedule, inspects a dwelling-house, he shall explain to the tenant or to his spouse, if either is present at the inspection, the procedure upon an application for the registration of a rent under this Part of this Schedule.
- 5 (1) Where representations are made as mentioned in paragraph 2 above or the rent officer is not satisfied that the rent specified in the application is a fair rent or, as the case may be, that the rent for the time being registered is any longer a fair rent, he shall serve a notice under this paragraph.
- (2) A notice under this paragraph shall be served on the landlord and on the tenant informing them that the rent officer proposes, at a time (which shall not be earlier

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than seven days after the service of the notice) and place specified in the notice to consider in consultation with landlord and the tenant, or such of them as may appear at that time and place, what rent ought to be registered for the dwelling-house or, as the case may be, whether a different rent ought to be so registered.

- (3) At any such consultaion the landlord and the tenant may each be represented by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.
- 6 After considering, in accordance with paragraph 5 above, what rent ought to be registered or, as the case may be, whether a different rent ought to be registered, the rent officer shall, as the case may require,—
- (a) determine a fair rent and register it as the rent for the dwelling-house; or
 - (b) confirm the rent for the time being registered and note the confirmation in the register;
- and shall notify the landlord and the tenant accordingly by a notice stating that if, within 28 days of the service of the notice or such longer period as he or a [^{F1}private rented housing] committee may allow, an objection in writing is received by the rent officer from the landlord or the tenant the matter will be referred to a [^{F1}private rented housing] committee.

Textual Amendments

- F1** Words in Sch. 5 para. 6 substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 6 para. 5\(c\)](#) (with s. 193); S.S.I. 2007/270, art. 3

- 7 (1) If such an objection as is mentioned in paragraph 6 above is received, then—
- (a) if it is received within the period of 28 days specified in that paragraph or a [^{F2}private rented housing] committee so direct, the rent officer shall refer the matter to a [^{F2}private rented housing] committee;
 - (b) if it is received after the expiry of that period the rent officer may either refer the matter to a [^{F2}private rented housing] committee or seek the directions of a [^{F2}private rented housing] committee whether so to refer it.
- (2) The rent officer shall indicate in the register whether the matter has been referred to a rent assessment committee in pursuance of this paragraph.

Textual Amendments

- F2** Words in Sch. 5 para. 7(1) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 6 para. 5\(c\)](#) (with s. 193); S.S.I. 2007/270, art. 3

Determination of fair rent by [^{F3}private rented housing] committee

Textual Amendments

- F3** Words in Sch. 5 para. 8 cross-heading substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 6 para. 5\(f\)](#) (with s. 193); S.S.I. 2007/270, art. 3

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- 8 (1) The [^{F4}private rented housing] committee to whom a matter is referred under paragraph 7 above—
- (a) may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than 14 days from the service of the notice as may be specified in the notice, such further information, in addition to any given to the rent officer in pursuance of paragraph 1 above, as they may reasonably require; and
 - (b) shall serve on the landlord and on the tenant a notice specifying a period of not less than 14 days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee.
- (2) If any person fails without reasonable cause to comply with any notice served on him under sub-paragraph (1)(a) above, he shall be liable to a fine not exceeding level 3 on the standard scale.
- (3) Where an offence under sub-paragraph (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.

Textual Amendments

F4 Words in [Sch. 5 para. 8\(1\)](#) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 6 para. 5\(c\)](#) (with [s. 193](#)); [S.S.I. 2007/270, art. 3](#)

- 9 Where, within the period specified in paragraph 8(1)(b) above, or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.
- 10 (1) The committee shall make such inquiry, if any, as they think fit and consider any information supplied or representation made to them in pursuance of paragraph 8 or 9 above and—
- (a) if it appears to them that the rent registered or confirmed by the rent officer is a fair rent, they shall confirm that rent;
 - (b) if it does not appear to them that that rent is a fair rent, they shall determine a fair rent for the dwelling-house.
- (2) Where the committee confirm or determine a rent under this paragraph they shall notify the landlord, the tenant and the rent officer of their decision and, in the case of the determination of a rent, of the date on which their decision was made.
- (3) On receiving the notification, the rent officer shall, as the case may require, either indicate in the register that the rent has been confirmed or register the rent determined by the committee as the rent for the dwelling-house.

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PART II

APPLICATIONS SUPPORTED BY CERTIFICATE OF FAIR RENT

Procedure on applications to rent officer

- 11 (1) On receiving an application for the registration of a rent which is made as mentioned in section 47(4) above, the rent officer shall ascertain whether the works specified in the certificate of fair rent have been carried out in accordance with the plans and specifications which accompanied the application for the certificate or, as the case may be, whether—
- (a) the condition of the dwelling-house is the same as at the date of the certificate, and
 - (b) if any furniture is or is to be provided for use under a regulated tenancy of the dwelling-house, the quantity, quality and condition of the furniture in the dwelling-house accord with the prescribed particulars contained in the application for the certificate.
- (2) If the rent officer is satisfied that the works have been so carried out or, as the case may be, that—
- (a) the dwelling-house is in the same condition as at the date of the certificate, and
 - (b) if any furniture is or is to be provided for use under a regulated tenancy of the dwelling-house, the quantity, quality and condition of the furniture in the dwelling-house accord with the prescribed particulars contained in the application for the certificate,
- he shall register the rent in accordance with the certificate.
- (3) If the rent officer is not satisfied as mentioned in sub-paragraph (2) above, he shall serve on the applicant a notice stating the matters with respect to which he is not so satisfied and informing him that if, within 14 days from the service of the notice or such longer period as the rent officer or a [^{F5}private rented housing] committee may allow, the applicant makes a request in writing to that effect, the rent officer will refer the matter to a [^{F5}private rented housing] committee.

Textual Amendments

F5 Words in [Sch. 5 para. 11\(3\)](#) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 6 para. 5\(c\)](#) (with [s. 193](#)); [S.S.I. 2007/270, art. 3](#)

- 12 If such a request as is mentioned in paragraph 11(3) above is made, then—
- (a) if it is made within the period of 14 days specified in that paragraph or a [^{F6}private rented housing] committee so direct, the rent officer shall refer the matter to a [^{F6}private rented housing] committee;
 - (b) if it is made after the expiry of that period, the rent officer may either refer the matter to a [^{F6}private rented housing] committee or seek the directions of a [^{F6}private rented housing] committee whether so to refer it

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Textual Amendments

- F6** Words in [Sch. 5 para. 12](#) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 5\(c\)](#) (with s. 193); S.S.I. 2007/270, art. 3

Procedure on references to [F7private rented housing] committee

Textual Amendments

- F7** Words in [Sch. 5 para. 13 cross-heading](#) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 5\(f\)](#) (with s. 193); S.S.I. 2007/270, art. 3

- 13 (1) The [F8private rented housing] committee to whom a matter is referred under paragraph 12 above shall give the applicant an opportunity to make representations in writing or to be heard either in person or by a person authorised by him in that behalf, whether or not that person is an advocate or a solicitor.
- (2) After considering any representations made, under sub-paragraph (1) above, the rent assessment committee shall notify the rent officer and the applicant whether they are satisfied as mentioned in paragraph (2) above and—
- if they are so satisfied they shall direct the rent officer to register the rent in accordance with the certificate;
 - if they are not so satisfied they shall direct the rent officer to refuse the application for registration.

Textual Amendments

- F8** Words in [Sch. 5 para. 13\(1\)](#) substituted (3.9.2007) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 5\(c\)](#) (with s. 193); S.S.I. 2007/270, art. 3

Provisional registration

- 14 Where a rent is registered in pursuance of such an application as is mentioned in paragraph 11(1) above by a person who intends to grant a regulated tenancy, the registration shall be provisional only until the regulated tenancy is granted and shall be of no effect unless the rent officer is notified in the prescribed manner, within one month from the date of the registration or such longer time as the rent officer may allow, that the regulated tenancy has been granted.
- 15 Where a registration is made as mentioned in paragraph 14 above, the rent officer shall indicate in the register that it is so made and—
- if he is notified as mentioned in that paragraph that the regulated tenancy has been granted he shall indicate that fact in the register;
 - if he is not so notified he shall delete the registration.

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PART III

SUPPLEMENTAL

- 16 There shall be included, among the matters with respect to which representations may be made or consultations are to be held or notices to be given under Parts I and II of this Schedule, any amount to be noted in the register in pursuance of section 49(2) above and any amount to be recorded in the register in pursuance of an order made under section 33 above.

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