

*Status: Point in time view as at 07/04/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Rent (Scotland) Act 1984, Part I. (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 <sup>F1</sup>the First-tier Tribunal] may allow, an objection in writing is received by the rent officer from the landlord or the tenant the matter will be referred to <sup>F1</sup>the First-tier Tribunal].

#### Textual Amendments

- F1** Words in Sch. 5 para. 6 substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(a\)](#) (with [sch. 1](#))

- 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 <sup>F2</sup>the First-tier Tribunal] so <sup>F3</sup>directs] the rent officer shall refer the matter to <sup>F2</sup>the First-tier Tribunal];
  - (b) if it is received after the expiry of that period the rent officer may either refer the matter to <sup>F2</sup>the First-tier Tribunal] or seek the directions of <sup>F2</sup>the First-tier Tribunal] whether so to refer it.
- (2) The rent officer shall indicate in the register whether the matter has been referred to <sup>F4</sup>the First-tier Tribunal] in pursuance of this paragraph.

#### Textual Amendments

- F2** Words in Sch. 5 para. 7(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(b\)\(i\)](#) (with [sch. 1](#))
- F3** Word in Sch. 5 para. 7(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(b\)\(i\)](#) (with [sch. 1](#))
- F4** Words in Sch. 5 para. 7(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(b\)\(ii\)](#) (with [sch. 1](#))

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### *[<sup>F5</sup>Determination of fair rent by the First-tier Tribunal]*

#### **Textual Amendments**

- F5** Sch. 5 para. 8 cross-heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(d\)](#) (with sch. 1)

- 8 (1) The [<sup>F6</sup>First-tier Tribunal] 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 [<sup>F7</sup>First-tier Tribunal], 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 [<sup>F8</sup>it] 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 [<sup>F7</sup>First-tier Tribunal].
- (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**

- F6** Words in Sch. 5 para. 8(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(c\)\(i\)](#) (with sch. 1)
- F7** Words in Sch. 5 para. 8(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(c\)\(ii\)](#) (with sch. 1)
- F8** Word in Sch. 5 para. 8(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), [sch. 2 para. 1\(28\)\(c\)\(iii\)](#) (with sch. 1)

- 9 Where, within the period specified in paragraph 8(1)(b) above, or such further period as the [<sup>F9</sup>First-tier Tribunal] may allow, the landlord or the tenant requests to make oral representations the [<sup>F9</sup>First-tier Tribunal] 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.

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### Textual Amendments

**F9** Words in Sch. 5 para. 9 substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(e\)](#) (with sch. 1)

- 10 (1) The [<sup>F10</sup>First-tier Tribunal] shall make such inquiry, if any, as [<sup>F11</sup>it thinks] fit and consider any information supplied or representation made to [<sup>F12</sup>it] in pursuance of paragraph 8 or 9 above and—
- (a) if it appears to [<sup>F12</sup>it] that the rent registered or confirmed by the rent officer is a fair rent, [<sup>F12</sup>it] shall confirm that rent;
  - (b) if it does not appear to [<sup>F12</sup>it] that that rent is a fair rent, [<sup>F13</sup>it] shall determine a fair rent for the dwelling-house.
- (2) Where the [<sup>F14</sup>First-tier Tribunal] confirm or determine a rent under this paragraph [<sup>F15</sup>it] shall notify the landlord, the tenant and the rent officer of [<sup>F13</sup>its] decision and, in the case of the determination of a rent, of the date on which [<sup>F13</sup>its] 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 [<sup>F16</sup>First-tier Tribunal] as the rent for the dwelling-house.

### Textual Amendments

- F10** Words in Sch. 5 para. 10(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(i\)](#) (with sch. 1)
- F11** Words in Sch. 5 para. 10(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(ii\)](#) (with sch. 1)
- F12** Word in Sch. 5 para. 10(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(iii\)](#) (with sch. 1)
- F13** Word in Sch. 5 para. 10(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(iv\)](#) (with sch. 1)
- F14** Words in Sch. 5 para. 10(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(i\)](#) (with sch. 1)
- F15** Word in Sch. 5 para. 10(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(iii\)](#) (with sch. 1)
- F16** Words in Sch. 5 para. 10(3) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\), reg. 1\(2\), sch. 2 para. 1\(28\)\(f\)\(i\)](#) (with sch. 1)

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