

1974 No. 380

COUNTER-INFLATION

**The Counter-Inflation (Private Sector Residential Rents)
(England and Wales) Order 1974**

<i>Made</i>	- - -	8th March 1974
<i>Laid before Parliament</i>		8th March 1974
<i>Coming into Operation</i>		8th March 1974

The Secretary of State for the Environment (as respects England, except Monmouthshire) and the Secretary of State for Wales (as respects Wales and Monmouthshire), in exercise of their powers under sections 11 and 23(2) of, and paragraphs 1 and 3 of Schedule 3 to, the Counter-Inflation Act 1973(a) and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and commencement

1. This order may be cited as the Counter-Inflation (Private Sector Residential Rents) (England and Wales) Order 1974 and shall come into operation on 8th March 1974.

Interpretation

2.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order, unless otherwise expressly provided or the context otherwise requires—

“the Housing Act” means the Housing Finance Act 1972(c);

“the Rent Act” means the Rent Act 1968(d);

“high rateable value unfurnished tenancy” means a tenancy which would but for paragraphs (a), (aa) and (aaa) of section 1(1) of the Rent Act be a protected tenancy;

“high rateable value furnished tenancy” means a tenancy (including a licence) which would but for section 71 of the Rent Act constitute a contract to which Part VI of that Act applied;

“Part VI contract” means a contract to which Part VI of the Rent Act applies;

“Part VIII tenancy” means a tenancy to which Part VIII of the Housing Act applies;

“the standstill period” means the period beginning with 8th March 1974 and ending with 31st December 1974; and other expressions used shall be construed as in the Rent Act.

(a) 1973 c. 9.
(c) 1972 c. 47.

(b) 1889 c. 63.
(d) 1968 c. 23.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment.

(4) Any reference to a numbered article is a reference to the article bearing the number in this order.

(5) For the purposes of this order the expression "rent" used in section 11(1) of the Counter-Inflation Act 1973 shall include, in relation to any tenancy of a dwelling-house to which this order applies, any sums payable by the tenant to the landlord for the use of furniture or for services, and which would be treated as rent for any of the purposes of the Rent Act.

Application of the order

3.—(1) This order applies to the following tenancies (whether granted before, on or after 8th March 1974) —

- a regulated tenancy
- a controlled tenancy
- a high rateable value unfurnished tenancy
- a Part VIII tenancy, and

to any Part VI contract and to any high rateable value furnished tenancy.

(2) Any reference in this order to a tenancy of a dwelling-house to which this order applies includes a Part VI contract and a high rateable value furnished tenancy.

(3) In relation to any tenancy of a dwelling-house to which this order applies any reference to a landlord or tenant shall include respectively a reference to a lessor or lessee within the meaning of section 84(1) of the Rent Act and cognate expressions shall be construed accordingly.

(4) Where a regulated tenancy is followed by a statutory tenancy of the same dwelling-house, the two shall be treated for the purposes of this order as together constituting one regulated tenancy.

(5) Where a controlled tenancy is followed by a statutory tenancy of the same dwelling-house and that tenancy is itself a controlled tenancy, the two shall be treated for the purposes of this order as together constituting one controlled tenancy.

Counter-inflation limit on rent

4.—(1) The rent recoverable in respect of the standstill period under a tenancy of a dwelling-house to which this order applies shall not, subject to paragraph (3) of this article, exceed the counter-inflation limit, and, accordingly, the amount of any excess shall, notwithstanding anything in any agreement, be irrecoverable from the tenant.

(2) For the purposes of this article, the counter-inflation limit shall be determined as follows:—

- (a) if on 8th March 1974 the dwelling-house is let on or subject to a tenancy to which this order applies, the counter-inflation limit is the recoverable rent under that tenancy on that date, as varied by any agreement made before that date (but not as varied by any later agreement);
- (b) if sub-paragraph (a) of this paragraph does not apply, but the dwelling-house was let on or subject to a tenancy to which this order applies at

any time within a period of twelve months beginning on 8th March 1973, the counter-inflation limit is the recoverable rent under that tenancy (or, if there was more than one such tenancy, the last of them) for the last rental period thereof;

- (c) if sub-paragraphs (a) and (b) of this paragraph do not apply, and the dwelling-house is let on or subject to a tenancy to which this order applies which is granted after 8th March 1974, the counter-inflation limit is the rent payable under the terms of that tenancy (or if there is more than one such tenancy, the first of them) for the first rental period thereof, and not as varied by any agreement made after that date.

(3) Nothing in the foregoing provisions of this article shall prevent the rent recoverable in respect of the standstill period under a tenancy of a dwelling-house to which this order applies being increased to take account of any increase in rates or of the cost of any improvements to that dwelling-house, and the counter-inflation limit shall be increased accordingly.

(4) Where any notice of increase purporting to increase the rent under a tenancy of a dwelling-house to which this order applies (other than on account of rates or improvements as permitted by paragraph (3) of this article) is served whether before, on or after 8th March 1974, which would, apart from the provisions of this order, take effect during the standstill period, that notice shall be invalid and of no effect.

Recovery of excess rent

5.—(1) Where a tenant has paid on account of rent any amount which, by virtue of this order, is irrecoverable by the landlord, then, subject to paragraph (3) of this article, the tenant who paid it shall be entitled to recover the amount from the landlord who received it or his personal representatives.

(2) Subject to paragraph (3) of this article, any amount which a tenant is entitled to recover under paragraph (1) of this article 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 paragraph (1) of this article shall be recoverable at any time after the expiry of two years from the date of payment.

Adjustments relating to rental periods

6.—(1) In ascertaining for the purposes of this order whether there is any difference with respect to rents between one rental period and another (whether of the same tenancy or not), or the amount of any such difference, any necessary adjustment shall be made to take account of periods of different lengths; and 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.

(2) Where by virtue of any of the provisions of this order any amount of rent is in respect of the standstill period irrecoverable from the tenant, any necessary adjustment shall be made to take account of rental periods which either begin before the standstill period and end during or after that period, or begin during the standstill period and end after that period.

Validity of agreements and tenancies

7. Nothing in this order shall render invalid any agreement or tenancy to which it applies, but any such agreement or tenancy shall have effect during the standstill period subject to the provisions of this order.

Jurisdiction of the county court

8.—(1) Without prejudice to the existing jurisdiction of the county court under section 105 of the Rent Act (county court jurisdiction), the county court shall have jurisdiction to determine any question as to the application of any of the provisions of this order to any tenancy to which it applies, and in particular as to the rent recoverable by virtue of the said provisions, or as to any matter which is or may become material for determining any such question.

(2) Subsection (3) of section 105 of the Rent Act shall apply to any claim or other proceedings arising out of any of the provisions of this order as it applies in respect of the provisions of that Act which are specified in subsection (5) of that section.

(3) The power of the Lord Chancellor under section 106 of the Rent Act (rules as to procedure) to make rules and give directions for the purpose of giving effect to the provisions of the Rent Act shall extend to the provisions of this order.

Transitional

9. Without prejudice to paragraph 4 of Schedule 3 to the Counter-Inflation Act 1973, any right acquired or liability, obligation or penalty incurred by virtue of any of the provisions of this order shall not be affected by Part II of that Act ceasing to be in force, and accordingly any investigation, legal proceeding or remedy in respect of any such right, liability, obligation or penalty may be instituted, continued or enforced as though the said Part II had continued in force.

8th March 1974.

Anthony Crosland,
Secretary of State for the Environment.

8th March 1974.

John Morris,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies to England and Wales, prohibits, during a standstill period beginning on the 8th March 1974 and ending on the 31st December 1974, any increase, other than an increase reflecting an increase in rates or the cost of any improvement, in the rent for any dwelling-house which is let on or subject to a tenancy which is a regulated or controlled tenancy under the Rent Act 1968, a tenancy subject to Part VIII of the Housing Finance Act 1972 (housing association and housing trust tenancies), or a contract subject to Part VI of the Rent Act 1968 (furnished lettings), or would be such a tenancy or contract if the rateable value of the dwelling did not exceed the relevant rateable value limit. The Order also provides that the rents on reletting during the standstill period of any dwellings previously let within the preceding twelve months shall not exceed the previous rent.

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