

1974 No. 382 (S.23)

**COUNTER-INFLATION**

**The Counter-Inflation (Residential Rents—Private Sector)  
(Scotland) Order 1974**

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

In exercise of the powers conferred upon me by 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 me in that behalf, I hereby make the following order:—

*Citation, extent and commencement*

1. This order, which may be cited as the Counter-Inflation (Residential Rents—Private Sector) (Scotland) Order 1974, applies to Scotland 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 Rent Act” means the Rent (Scotland) Act 1971(c);

“the Housing Act” means the Housing (Financial Provisions) (Scotland) Act 1972(d);

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

“high rateable value furnished tenancy” means a tenancy (including a licence) which would, but for section 86(1) of the Rent Act, constitute a Part VII contract;

“housing association tenancy” means a tenancy to which sections 60 to 66 of the Housing Act apply;

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

“the standstill period” means the period beginning with 8th March 1974 and ending with 31st December 1974;

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(a) 1973 c. 9.  
(c) 1971 c. 28.

(b) 1889 c. 63.  
(d) 1972 c. 46.

and any expression used in this order which is also used in the Rent Act or in the Housing Act shall have the same meaning in this order as it has in the Rent Act or in the Housing Act.

(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 that number in this order.

(5) For this 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 dwellinghouse 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 housing association tenancy, and

to any Part VII 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 VII 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 100(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 (of, if there was more than one such tenancy, the last of them) for the last rental period thereof;
- (c) if sub-paragraph (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 improvement 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 and 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 on, 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*

8.—(1) The jurisdiction of the sheriff under section 122 of the Rent Act (Jurisdiction and Procedure) shall be extended to enable him, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question—

- (a) as to the application of this order to any tenancy or as to any matter which is or may become material for determining any such question; or
- (b) as to the amount of rent recoverable in respect of the standstill period under a tenancy to which this order applies or as to the amount of rent which is, but virtue of this order, irrecoverable from the tenant,

and section 123(1) of the Rent Act shall apply to any application to the sheriff under this paragraph as it applies to any such application as is referred to in that section.

(2) Any determination under paragraph (1) of this article—

- (a) may be made so as to relate to any time after the date of commencement of this order and before the date of the determination;
- (b) shall, subject to the provisions of this order, have effect with respect to any time after the date of the determination during which this order is in force.

*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 proceedings 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.

*William Ross,*  
One of Her Majesty's Principal  
Secretaries of State.

St Andrew's House,  
Edinburgh.  
8th March 1974.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which applies to Scotland, prohibits until 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) a regulated tenancy;
- (b) a controlled tenancy;
- (c) a high rateable value unfurnished tenancy;
- (d) a housing association tenancy (that is, a tenancy to which sections 60 to 66 of the Housing (Financial Provisions) (Scotland) Act 1972 apply);
- (e) a Part VII contract (that is, a furnished letting); and
- (f) a high rateable value furnished tenancy.

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