
STATUTORY INSTRUMENTS

1994 No. 568

The Rent Officers (Additional Functions) (Amendment) Order 1994

Amendments to the 1990 Order

2. The Rent Officers (Additional Functions) Order 1990(1) is amended as follows —

(a) for paragraphs (3) and (4) of article 5(2) substitute—

“(3) No determination shall be made under paragraph 2A of Schedule 1 if the tenancy is of residential accommodation (within the meaning of regulation 7(3) of the Housing Benefit (General) Regulations 1987(3)) or a hostel (within the meaning of regulation 12A of those Regulations(4)).”;

(b) in Schedule 1—

(i) insert after paragraph 2—

“2A.—(1) The rent officer shall determine whether, in his opinion, the rent payable for the tenancy of the dwelling at the relevant time is exceptionally high having regard to the levels of rent under assured tenancies in the registration area in which the dwelling is situated.

(2) In sub-paragraph (1)—

“registration area” has the same meaning as in Part IV of the Rent Act 1977(5), and

“rent payable for the tenancy” means—

(a) where a determination is made under sub-paragraph (2) of paragraph 2, the rent determined under that sub-paragraph,

(b) where no determination is so made and a determination is made under sub-paragraph (2) of paragraph 1, the rent determined under that sub-paragraph, and

(c) in any other case, the rent payable under the tenancy.

(3) If the rent officer—

(a) determines under sub-paragraph (1) that the rent is exceptionally high, and

(b) is satisfied that, for the purposes of making comparisons, there is a sufficient number of dwellings in the same locality —

(i) which have the same number of bedrooms and other rooms suitable for living in as the dwelling, (or, in a case where

(1) S.I.1990/428; relevant amending instrument is S.I. 1993/652.

(2) Paragraphs (3) and (4) were inserted by S.I. 1993/652.

(3) S.I. 1987/1971; relevant amending instrument is S.I. 1990/2564.

(4) Inserted by S.I. 1990/546 and amended by S.I. 1993/317.

(5) 1977 c. 42.

the dwelling does not accord with the size criteria for the occupiers, the same number of such bedrooms and other rooms as do so accord),

- (ii) which are in a reasonable state of repair, and
- (iii) which are let on assured tenancies at rents which are not exceptionally high rents,

the rent officer shall also determine the highest rent, which is not an exceptionally high rent, for a tenancy of such a dwelling which a landlord might reasonably have been expected to obtain at the relevant time (on the same assumption as in paragraph 1(1)).

(4) When considering for the purposes of sub-paragraph (3) whether a rent is an exceptionally high rent, the rent officer shall have regard to the same matter as in sub-paragraph (1).

(5) In this paragraph “assured tenancy” has the same meaning as in Part I of the Housing Act 1988 except that it includes a tenancy which would be an assured tenancy but for paragraph 2 or 10 of Schedule 1 to that Act and a licence which would be an assured tenancy (within the extended meaning given by this paragraph) were it not a licence.”;

- (ii) in paragraph 3(1) for “paragraph 1(2), 2(2) or (where no determination is to be made under paragraph 1(2)) paragraph 1(1)” substitute—

- “(a) paragraph 1(1) (where no determination is to be made under paragraph 1(2), 2(2) or 2A(3)),
- (b) paragraph 1(2) (where no determination is to be made under paragraph 2(2) or 2A(3)),
- (c) paragraph 2(2) (where no determination is to be made under paragraph 2A(3)), or
- (d) paragraph 2A(3)”;

- (iii) in paragraph 3(2) for “a determination under paragraph 1(2) or 2(2), means the rent determined under paragraph 1(2) or 2(2)” substitute “a determination under paragraph 1(2), 2(2) or 2A(3), means the rent determined under paragraph 1(2), 2(2) or 2A(3)”;
- and

- (iv) in paragraph 5 for “paragraph 1 or 3” substitute “paragraph 1, 2A or 3”;

- (c) in paragraph 1(a) of Schedule 2 for “(within the meaning of Part II of the Social Security Act 1986)” substitute “(within the meaning of Part VII of the Social Security Contributions and Benefits Act 1992)”⁽⁶⁾.

⁽⁶⁾ 1992 c. 4.