

2002 No. 312

HOUSING

The Scottish Secure Tenants (Compensation for Improvements) Regulations 2002

Made 26th June 2002

Laid before the Scottish Parliament 27th June 2002

Coming into force 30th September 2002

The Scottish Ministers, in exercise of the powers conferred by sections 30 and 109(2) of the Housing (Scotland) Act 2001(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Scottish Secure Tenants (Compensation for Improvements) Regulations 2002 and shall come into force on 30th September 2002.

Interpretation

2. In these Regulations—

“the Act” means the Housing (Scotland) Act 2001;

“notional life” in relation to qualifying improvement work effected by the installation or replacement of an item specified in column 1 of the Schedule is the period of years specified opposite that item in column 2 of the Schedule;

“the 1987 Act” means the Housing (Scotland) Act 1987(b);

“qualifying person” means a person who is a qualifying person in terms of section 30 of the Act who makes a claim in respect of qualifying improvement work; and

“landlord” means the landlord of a house subject to a Scottish secure tenancy who receives a claim for compensation for qualifying improvement work.

Qualifying improvement work

3. Improvement work is prescribed qualifying improvement work for the purposes of section 30(1) of the Act if it consists of the installation or replacement of an item specified in column 1 of the Schedule.

Circumstances where compensation is not payable in respect of qualifying improvement work

4. Compensation shall not be payable—

(a) where the compensation which would otherwise be payable is less than £100 being the prescribed amount for the purposes of section 30(4)(c) of the Act; or

(a) 2001 asp 10.

(b) 1987 c.26.

- (b) where the tenancy ends in one or more of the following prescribed circumstances for the purposes of section 30(4)(a) of the Act:–
 - (i) an order for recovery of possession was made on any of the grounds specified in Part I of Schedule 2 to the Act;
 - (ii) the house was disposed of under section 14 of the 1987 Act;
 - (iii) the house was disposed of under section 65 of the 2001 Act;
 - (iv) the right to buy under Part II of the 1987 Act has been exercised; or
 - (v) the qualifying person has been granted a new tenancy, whether alone or jointly, of the same, or substantially the same, house by the same landlord.

Amount of compensation

5.—(1) Subject to paragraphs (2) to (4), the amount of compensation payable for qualifying improvement work shall be calculated in accordance with the formula–

$$C \times \frac{(1-Y)}{N}$$

which is the prescribed method of calculation for the purpose of section 30(5)(a)(ii) of the Act where–

- C = the cost of the improvement work from which shall be deducted the amount of any grant made–
 - (i) under Part XIII of the 1987 Act; and
 - (ii) under the Home Energy Efficiency Scheme Regulations 1997(a);
- N = the notional life of the improvement effected by the work; and
- Y = the number of years starting on the date on which the improvement was completed and ending on the date on which the tenancy ends and for the purposes of this paragraph part of a year shall be counted as a year.

(2) Where–

- (a) the cost of the improvement work was excessive;
- (b) the improvement effected by the work has deteriorated at a rate greater than that provided for in the notional life for that improvement; or
- (c) the improvement effected by the work is of a higher quality than it would have been had the landlord effected it,

the landlord may deduct from the amount of compensation calculated in accordance with paragraph (1) such sum as is reasonable in order to take into account that sub-paragraph (a), (b) or (c) applies.

(3) Where the improvement effected by the work has deteriorated at a rate lower than that provided for in the notional life for that improvement the landlord may add to the amount of compensation calculated in accordance with paragraph (1) such sum as is reasonable in order to take into account that the improvement has so deteriorated notwithstanding that otherwise the amount of compensation calculated in accordance with paragraph (1) would be nil.

(4) Compensation shall not be payable to the extent that the amount of compensation would exceed £4,000 per improvement.

Claims for compensation

6.—(1) Claims for compensation shall contain sufficient information to enable the landlord to calculate the amount of compensation payable and shall be made in writing within the period starting 28 days before and ending 21 days after, the tenancy comes to an end.

(2) The landlord shall respond to the claim within 28 days of the date of the claim.

Set off

7. The landlord may set off against any compensation payable under these Regulations any sum owed to it by the qualifying person.

(a) S.I. 1997/790, as amended by S.S.I. 2001/267.

Disputes

8.—(1) Where a qualifying person is aggrieved by any decision of a landlord concerning any question arising under these Regulations that person may within 28 days of receiving notification of that decision require it to be reviewed or reconsidered as the case may be.

- (2) Where a review or reconsideration is required under paragraph (1) the decision—
- (a) shall be reviewed by a valuer or surveyor, who took no part in making the decision, appointed for the purpose by the landlord;
 - (b) shall be reviewed by any of the landlord's members, committee members or board members as the case may be who took no part in making the decision; or
 - (c) shall be reconsidered by all the landlord's members, committee members or board members,

and the qualifying person may make written representations to and, accompanied by any representative of that person's choice, oral representations before, the person or persons undertaking the review or reconsideration.

(3) The qualifying person or the landlord may appeal to the sheriff against any decision taken on a review or reconsideration.

MARGARET CURRAN
A member of the Scottish Executive

St Andrew's House,
Edinburgh
26th June 2002

SCHEDULE

QUALIFYING IMPROVEMENT WORK AND NOTIONAL LIFE

<i>Column 1 (Item)</i>	<i>Column 2 (Notional life in years)</i>
1. Bath or shower	12
2. Cavity wall insulation	20
3. Sound insulation	20
4. Double glazing or other external window replacement or secondary glazing	20
5. Draught proofing of external doors or windows	8
6. Insulation of pipes, water tank or cylinder	10
7. Installation of mechanical ventilation in bathrooms and kitchens	7
8. Kitchen sink	10
9. Loft insulation	20
10. Rewiring and the provision of power and lighting or other electrical fixtures including smoke detectors	20
11. Security measures other than burglar alarm systems	15
12. Space or water heating	12
13. Storage cupboards in bathroom or kitchen	10
14. Thermostatic radiator valves	7
15. Wash hand basin	12
16. Watercloset	12
17. Work surfaces for food preparation	10

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce provisions for compensation for qualifying improvement work payable at the termination of a Scottish secure tenancy.

Regulation 3 prescribes qualifying improvement work with reference to the Schedule which details improvements that are to be regarded as qualifying improvements and the notional life of those improvements.

Regulation 4 prescribes the lower limit for compensation and specifies circumstances where no compensation is payable.

Regulation 5 provides a formula for calculating compensation and specifies the upper limit for compensation.

Regulation 6 sets out the procedure to be followed in relation to compensation claims.

Regulation 7 provides that a landlord can set off against compensation sums due to it by a qualifying person.

Regulation 8 sets out the procedures for review of decisions and allows a right of appeal to the sheriff.

These Regulations only apply in relation to improvement work begun after the Regulations come into effect.

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Improvements) Regulations 2002**

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