



Housing Rents and Subsidies (Scotland) Act 1975

1975 CHAPTER 28

Public sector housing

1 New system of rents for public sector housing

- (1) Sections 27 to 31 of the Housing (Financial Provisions) (Scotland) Act 1972 (determination of rents, etc. for public sector housing) shall cease to have effect.
- (2) Subject to the provisions of this section, a local authority may charge such reasonable rents as they may determine for the tenancy or occupation of houses provided by them.
- (3) A local authority shall from time to time review such rents and make such changes either of rents generally or of particular rents as circumstances may require.
- (4) In determining standard rents for houses to which their housing revenue account relates, a local authority shall, subject to section 33 of the 1972 Act (phasing out of supplementary charges), take no account of the personal circumstances of tenants.
- (5) A local authority may make provision for a working balance in their housing revenue account which is no larger than is reasonably necessary having regard to all the circumstances, but save as aforesaid they shall not make provision for a surplus in that account.
- (6) Schedule 4 (housing revenue account) to the 1972 Act shall be amended in accordance with Part I of Schedule 1 to this Act, but subject to the Note at the end of that Part.

2 Limitation on increases in standard rents of individual houses

- (1) Subject to subsection (2) below, a local authority shall not increase the income receivable from the standard rent of any house by more than £39 in any period of 12 months.

- (2) The restriction on any increase imposed by subsection (1) above shall not apply in respect of the standard rent which is first determined where a lease is granted to a new tenant of the house or where an improvement has been made in the house.
- (3) In subsection (2) above, "improvement" includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair.
- (4) The Secretary of State may, with the concurrence of the Treasury, by order vary the amount specified in subsection (1) above; and any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under this subsection.
- (5) This section shall apply to a development corporation or the Scottish Special Housing Association as it applies to a local authority.

3 Amendments relating to housing subsidies

The enactments relating to housing subsidies specified in Part II of Schedule 1 to this Act shall be amended in accordance with that Part, but subject to the Note at the end of that Part.

4 Transitional provisions relating to housing revenue account

- (1) The obligation under paragraph 1(5) of Schedule 4 to the 1972 Act to repay to the general rate fund the amount carried to the credit of the housing revenue account which is equal to the amount of the deficit shown in the account for any year, shall not apply in respect of such a deficit for the year 1974-75.
- (2) Paragraph 11 of the said Schedule 4, as originally enacted, shall not apply in relation to any surplus shown in the housing revenue account at the end of the year 1974-75, and any such surplus shall be credited to the general rate fund for that year.

5 Agreements for exercise by housing co-operatives of local authority housing functions

- (1) A local authority may make an agreement with a society, company or body of trustees for the time being approved by the Secretary of State for the purposes of this section (in this section called a "housing co-operative")—
 - (a) for the exercise by the co-operative, on such terms as may be provided in the agreement, of any of the local authority's powers relating to land or any interest in land held by them for the purposes of Part VII of the Housing (Scotland) Act 1966, and the performance by the co-operative of any of the local authority's duties relating to such land or interest; or
 - (b) for the exercise by the co-operative, in connection with any such land or interest, of any of the local authority's powers under section 140 or 141 of the said Act of 1966 (powers to provide furniture, board and laundry facilities).
- (2) An agreement to which this section applies may only be made with the approval of the Secretary of State, and the terms of any such agreement shall be approved by him.

- (3) The Secretary of State's approval to the making and to the terms of such an agreement may be given either generally or to any local authority or description of local authority or in any particular case, and may be given unconditionally or subject to any conditions.
- (4) Without prejudice to any power to let land conferred on a local authority by any enactment, the terms of an agreement to which this section applies may include terms providing for the letting of land to the housing co-operative by the local authority for a period not exceeding 20 years.
- (5) Houses on land included in an agreement to which this section applies shall continue to be included in the local authority's housing revenue account; and neither the fact that the authority have made the agreement nor any letting of land in pursuance of it shall be treated as a ground for the reduction, suspension or discontinuance of any Exchequer contribution or subsidy under section 58 of the Housing (Financial Provisions) (Scotland) Act 1968.
- (6) A housing association which is registered under Part II of the Housing Act 1974 shall not be entitled to a grant under Part III of that Act in respect of land for the time being comprised in an agreement to which this section applies.

6 Surplus funds of new town corporations

After section 38A of the New Towns (Scotland) Act 1968 (as inserted by section 4(2) of the Statutory Corporations (Financial Provisions) Act 1974) there shall be inserted the following section:—

“38B Disposal of surplus funds of development corporations.

- (1) Where it appears to the Secretary of State, after consultation with the Treasury and the development corporation, that a development corporation have a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for their future requirements, the development corporation shall, if the Secretary of State after such consultation as aforesaid so directs, pay to the Secretary of State such sum not exceeding the amount of that surplus as may be specified in the direction; and any sum received by the Secretary of State under this section shall, subject to subsection (3) of this section, be paid into the Consolidated Fund.
- (2) The whole or part of any payment made to the Secretary of State by a development corporation under subsection (1) above shall, if the Secretary of State with the approval of the Treasury so determines, be treated as made by way of repayment of such part of the principal of advances under section 37(1) of this Act, and as made in respect of the repayments due at such times, as may be so determined.
- (3) Any sum treated under subsection (2) above as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.”

Private sector housing

7 Phasing of rent increases where rent for dwelling-house under regulated tenancy is registered

- (1) Subject to the following provisions of this section, and to section 9 of this Act, where a rent for a dwelling-house under a regulated tenancy is registered (whether before or after the commencement of this Act), the rent for any rental period (whether contractual or statutory), beginning after the commencement of this Act and during the period of delay imposed in terms of Schedule 2 to this Act, may only be increased to the extent permitted in terms of that Schedule ; and accordingly—
 - (a) any notice of increase under section 21 (2) (b) of the 1971 Act; or
 - (b) any tenancy agreement, or any rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, served or made before or after such commencement, which purports to increase the rent payable at any time during that period above that permitted at that time in terms of that Schedule, shall have effect to increase the rent to the extent so permitted but no further.
- (2) This section shall not apply to the rent under any regulated tenancy of a dwelling-house which was granted after the commencement of this Act and after the date of registration of the rent if the person to whom it was granted was neither the tenant under any previous regulated tenancy of that dwelling-house nor any person who might have succeeded such a tenant as a statutory tenant of the dwelling-house.
- (3) This section shall not apply to any rent (whether registered before or after the commencement of this Act) which is subject to phasing under section 63 of the 1972 Act as applied by paragraph 14(2)(c) of Schedule 3 to the Housing Act 1974 (certain housing association, etc., tenancies).
- (4) The following provisions shall cease to have effect—
 - (a) section 79 of the 1971 Act and Schedule 13 thereto;
 - (b) section 37 of the 1972 Act and Schedule 6 thereto.
- (5) Nothing in this section or in Schedule 2 to this Act shall prevent or limit an increase in any sums included in a rent which are variable by virtue of section 43(4) of the 1971 Act (variable rents).
- (6) Schedule 2 to this Act shall have effect; and, unless the context otherwise requires, any expression used in this section or in Schedule 2 to this Act which is also used in Part III or IV of the 1971 Act shall have the same meaning as-in those Parts.

8 Limitation of rent increases under rent agreement where no rent is registered for dwelling-house under regulated tenancy

- (1) Without prejudice to section 9 of this Act, where no rent is registered for a dwelling-house under a regulated tenancy (whether granted before or after the commencement of this Act), the rent payable in any contractual period beginning after such commencement may not be increased, by virtue of any rent agreement (whether made before or after such commencement), above the appropriate maximum amount specified in this section.

- (2) In the case of any rent agreement which took effect before the commencement of this Act, the maximum amount to which the rent may be increased in terms of subsection (1) above is, for a rental period which begins—
- (a) during the year beginning with the commencement of this Act, or
 - (b) during a subsequent year beginning with an anniversary of such commencement,
- the amount which, for the last rental period beginning before the relevant year referred to in head (a) or (b) above, was payable by way of rent, having regard to the provisions of any enactment, plus £1.50 per week.
- (3) In the case of any rent agreement which takes effect on or after the commencement of this Act, the maximum amount to which the rent may be increased in terms of subsection (1) above is, for a rental period which begins—
- (a) during the first year of the period beginning with the date when the rent agreement takes effect, or
 - (b) during a subsequent year beginning with an anniversary of that date,
- the amount which, for the last rental period beginning before the relevant year referred to in head (a) or (b) above, was payable by way of rent, having regard to the provisions of any enactment, plus £1.50 per week.
- (4) There shall be disregarded for the purposes of this section such part of any increase of rent (in a case where any rates in respect of the dwelling-house are borne by the landlord) as corresponds to any increase in the rates so borne, ascertained in accordance with Schedule 4 to the 1971 Act.
- (5) Any rent agreement made before or after the commencement of this Act which purports to increase the rent payable thereunder at any time above that permitted at that time under this section shall have effect to increase the rent to the extent so permitted but no further.
- (6) Paragraph 9 of Schedule 2 to this Act shall apply for the purposes of this section as it applies for the purposes of that Schedule.
- (7) The Secretary of State may by order substitute, for the sum of £1.50 mentioned in subsections (2) and (3) above, a sum other than that sum.
- (8) An order under subsection (7) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that subsection.
- (9) In this section, "rent agreement" means a rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, and, unless the context otherwise requires, any expression used in this section which is also used in Part III or IV of the 1971 Act shall have the same meaning as in those Parts.

9 Annual limit on private sector rent increases

- (1) Notwithstanding any registration of a rent, or any rent agreement, which (in either case) permits the rent of a dwelling-house to be increased above the existing amount payable under a registration or rent agreement, the total of the rent payable under a regulated tenancy in a relevant period shall not, by virtue of a notice of increase or rent agreement taking effect at or after the commencement of this Act, be increased by more than £78 above the rent which would be payable in a period of twelve months at

the rate at which it was payable for the last rental period beginning before the relevant period ; and sections 7 and 8 of this Act shall have effect accordingly in relation to the rent payable for any rental period beginning at or after such commencement.

- (2) In this section, " relevant period " means—
- (a) in a case where the rent previously payable as aforesaid was in respect of a rent registered before the commencement of this Act, the period of 12 months beginning with such commencement, or any subsequent period of 12 months beginning with the anniversary of such commencement;
 - (b) in a case where the rent previously payable as aforesaid was in respect of a rent registered after such commencement, the period of 12 months beginning with the date of such registration, or any subsequent period of 12 months beginning with the anniversary of that date ;
 - (c) in a case where the rent previously payable as aforesaid was payable under a rent agreement in force before or after the commencement of this Act, the period of 12 months beginning with the date when the last increase (before or after such commencement) took effect under that agreement, or any subsequent period of 12 months beginning with the anniversary of that date.
- (3) This section shall not affect any increase in respect of a service element within the meaning of Schedule 2 to this Act.
- (4) The Secretary of State may by order substitute, for the sum of £78 mentioned in subsection (1) above, a sum other than that sum.
- (5) An order under subsection (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order made under that subsection.
- (6) Any notice of increase under section 21(2)(b) of the 1971 Act or any rent agreement which purports to increase the rent payable at any time above that permitted at that time in terms of this section shall have effect to increase the rent to the extent so permitted but no further.
- (7) The provisions of section 7(2), (3) and (5) and section 8(4) and (9) of this Act and of paragraphs 9 and 10 of Schedule 2 thereto shall apply for the purposes of this section as they apply for the purposes of those sections.

10 Termination of decontrol of controlled tenancy by reference to rateable value etc.

- (1) No controlled tenancy of a dwelling-house shall cease to be a controlled tenancy by reference to—
- (a) the rateable value of the dwelling-house in terms of section 34 of the 1972 Act;
 - (b) the occurrence of any event which, in terms of section 35(2) of that Act, would, but for the enactment of this section, have made the said section 34 applicable to the dwelling-house,
- whether or not an application for the registration of a rent has, before the commencement of this Act, been made by virtue of section 38 of the 1972 Act at a time when the dwelling-house was let on or subject to a controlled tenancy; and accordingly, sections 34, 35 and 38 of the 1972 Act shall cease to have effect.
- (2) Where an application for the registration of a rent has, before the commencement of this Act, been made by virtue of section 38 of the 1972 Act at a time when the dwelling-house was let on or subject to a controlled tenancy which would, but for the enactment

of subsection (1) above, have ceased to be a controlled tenancy under section 34 of that Act—

- (a) no rent shall, after such commencement, be registered in pursuance of such an application ; and
- (b) any rent which has, before such commencement, been registered in pursuance of such an application shall be deemed to have been deleted from the register, and shall be of no effect.

(3) In this section—

- (a) " registration " means registration under Part IV of the 1971 Act and " registered " and " register " shall be construed accordingly; and
- (b) other expressions have the same meanings as in the 1971 Act.

11 Increases of rent under controlled tenancy permitted towards cost of repairs

- (1) Subject to the following provisions of this section, where repairs have been carried out to a dwelling-house let on or subject to a controlled tenancy, or where repairs have been carried out to any premises, whether or not they include the dwelling-house, which benefit the dwelling-house, the rent limit under the controlled tenancy of the dwelling-house, for rental periods occurring after the completion of the repairs, shall be increased by 12J per cent, per annum of the amount expended on the repairs by the landlord or any superior landlord or any person from whom the landlord or the superior landlord derives title, but the rent of such a dwelling-house may only be increased by virtue of this subsection by the service of a notice of increase under section 58 of the 1971 Act.
- (2) To the extent to which benefit from the carrying out of repairs to the dwelling-house or premises mentioned in subsection (1) above accrues to premises other than the dwelling-house, the reference in the said subsection (1) to the amount expended on the repairs shall be construed as a reference to only so much of that amount (if any) as may be determined, by agreement in writing between the landlord and the tenant, or by the sheriff, to be properly apportionable to the dwelling-house, having regard to any benefit accruing to the dwelling-house and to the other premises from the carrying out of the repairs.
- (3) Where a grant has been paid, or is payable, towards the cost of the repairs under any of the relevant enactments, the references in subsections (1) and (2) above to the amount expended on the repairs shall be construed as references to that amount as diminished by the amount of the grant.
- (4) The sheriff may order the cancellation or reduction of any increase sought or paid by virtue of subsection (1) above on the ground—
 - (a) that the repairs in question were unnecessary; or
 - (b) that a greater amount was expended upon them than was reasonable,but no such order shall be made on the ground that the repairs were unnecessary in any case where the repairs were carried out in pursuance of a notice under section 24 of the Housing (Scotland) Act 1969 or where a grant has been paid, or is payable, towards the cost of the repairs under any of the relevant enactments.
- (5) Sections 122(1) and 123(1) of the 1971 Act shall apply in relation to any application to the sheriff for the purpose of subsection (2) or (4) above as if this section were a section of that Act referred to in section 123(3) thereof ; and any determination or order under

subsection (2) or (4) above may be made so as to relate to any rental period, whether before or after the date of such determination or order.

(6) In this section—

" relevant enactments " means—

- (a) Part II of the Housing (Financial Provisions) (Scotland) Act 1968 ; and
- (b) Part I of the Housing (Scotland) Act 1974;

and any other expression which is also used in Part V of the 1971 Act shall have the same meaning as in that Part.

(7) This section does not apply to—

- (a) any repairs completed before the commencement of this Act; or
- (b) any repairs which, as between the tenant and the landlord, the tenant is under an express liability to carry out.

12 Eligibility for housing association grant and revenue deficit grant

The fact that a housing association is a society registered under the Industrial and Provident Societies Act 1965 and that its rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the grant or assignation of tenancies to persons other than members shall not render it ineligible for housing association grant under section 29 of the Housing Act 1974 or for revenue deficit grant under section 32 of that Act.

13 Continuation of right to recover excess rent, etc., under Counter-Inflation Orders

- (1) Article 5 of the Counter-Inflation (Residential Rents—Private Sector) (Scotland) Order 1974 (recovery of excess rent) shall continue to have effect, for the purposes of that Order and of the Counter-Inflation (Residential Rents—Private Sector) (Scotland) No. 2 Order 1974, so as to enable a tenant to recover rent at any time when he is able to recover it in terms of that Article, whether or not Part II of the Counter-Inflation Act 1973 (under which the Orders were made) is in force.
- (2) Article 8 of the Order first mentioned (jurisdiction of sheriff) shall continue to have effect, for the purpose of both of the said Orders, in respect of any proceedings commenced before the expiry of a period of two years commencing on 16th May 1975, whether or not Part II of the said Act of 1973 is in force.
- (3) Section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply in relation to the said Orders, as continued in effect by virtue of this section, as it applies in relation to an enactment which is repealed by another Act.

Miscellaneous and general

14 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
 - (a) any expenses of the Secretary of State under this Act, and
 - (b) any increase in the sums payable out of money so provided under any Act other than this Act which is attributable to any provision of this Act.

- (2) There shall be paid into the Consolidated Fund and into the National Loans Fund any sums payable into those Funds under any Act other than this Act by virtue of any provision of this Act.

15 Miscellaneous and consequential amendments and repeals

- (1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments set out in that Schedule, being miscellaneous amendments and amendments consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to the Note at the end of that Schedule.

16 Interpretation

- (1) In this Act, unless the context otherwise requires—
 - " the 1971 Act " means the Rent (Scotland) Act 1971;
 - " the 1972 Act " means the Housing (Financial Provisions) (Scotland) Act 1972;
 - " local authority " has the meaning assigned to it by section 1 of the Housing (Scotland) Act 1966 ;
- (2) Section 78 of the 1972 Act (interpretation) shall apply in relation to sections 1 to 5 of this Act as it applies in relation to the 1972 Act.
- (3) Except where the context otherwise requires, any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment, including this Act.

17 Citation, commencement and extent

- (1) This Act may be cited as the Housing Rents and Subsidies (Scotland) Act 1975.
- (2) The Housing (Scotland) Acts 1966 to 1974 and this Act (except sections 6 to 13) may be cited together as the Housing (Scotland) Acts 1966 to 1975.
- (3) The Rent (Scotland) Acts 1971 to 1974 and sections 7 to 11 of this Act may be cited together as the Rent (Scotland) Acts 1971 to 1975.
- (4) This Act shall come into force on 16th May 1975.
- (5) With the exception of this section, and section 15 of this Act so far as relating to paragraph 17 of Schedule 3 to this Act (which extend also to England and Wales), this Act extends to Scotland only.