

## SCHEDULES

### SCHEDULE 2

Section 7.

#### PHASING OF RENT INCREASES WHERE RENT FOR DWELLING-HOUSE UNDER REGULATED TENANCY IS REGISTERED

#### PART I

#### PHASING OF RENT INCREASES

##### *Interpretation*

1 (1) In this Schedule—

" noted amount " means the amount of the registered rent noted as fairly attributable to the provision of services under subsection (1A) of section 43 of the 1971 Act, as substituted in terms of paragraph 14 of this Schedule ;

" period of delay " means, subject to paragraphs 3(4) and 4 to 7 below, a period of two years beginning with the date of registration of a rent;

" permitted increase " means the amount by which the rent for any rental period may be increased under paragraph 3 below ;

" previous rent limit " means, subject to sub-paragraph (2) of this paragraph and to paragraphs 4, 6 and 7 below, the amount which for the last rental period beginning before the date of registration was payable by way of rent, having regard to the provisions of any enactment;

" rental period " means a rental period beginning during the period of delay and after the commencement of this Act;

" service element " means any amount calculated under paragraph 2(1) below;

" specified sum " means £0.40 per week for a rental period which begins during the first year of the period of delay, with the addition of a further £0.40 per week for a rental period which begins during the second year.

- (2) Where the rent includes an amount payable in respect of rates, the previous rent limit shall be decreased by the amount so payable, ascertained in accordance with Schedule 4 to the 1971 Act.

##### *Service element*

- 2 (1) Where there is, in respect of any registered rent, a noted amount, in the cases mentioned in the first column of the Table below, the amount of the service element shall be calculated as specified in the second column.

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TABLE

<i>Case</i>	<i>Service element</i>
Case A. A specified amount or proportion was in the previous rent limit attributable to the provision of services and came to less than the noted amount.	The service element is the difference between the amount or proportion and the noted amount.
Case B. No amount or proportion attributable to the provision of services was specified in the previous rent limit, but an amount less than the noted amount appears to the rent officer or rent assessment committee to have been attributable to such provision.	The service element is the difference between— (a) an amount bearing to the previous rent limit the same proportion as the noted amount bears to the registered rent, and (b) the noted amount.
Case C. No amount appears to the rent officer or rent assessment committee to have been attributable in the previous rent limit to the provision of services.	The service element is the noted amount.

- (2) The amount of any service element shall be recorded and identified as such in the register.

*Formulae for calculating increases in rent*

- 3 (1) Subject to paragraph 3(1)(c) of Part III of the Schedule to the Fire Precautions Act 1971 and sub-paragraphs (4) and (5) of this paragraph, the permitted increase is an increase to an amount calculated in accordance with the formulae set out in sub-paragraph (2) or (3) below, and for the purposes of this paragraph—  
 PRL is the previous rent limit;  
 SE is the service element;  
 RR is the registered rent;  
 SS(1) is the specified sum in respect of a rental period which begins during the first year of the period of delay;  
 SS(2) is the specified sum for a rental period which begins during the second year of that period.
- (2) The permitted increase for a rental period which begins during the first year of the period of delay is an increase to the greater of the following amounts, namely—  
 (a)  $\mathbf{PRL + SE + \frac{1}{3} [RR - (PRL + SE)]}$   
 (b)  $\mathbf{PRL + SE + SS(1)}$
- (3) The permitted increase for a rental period which begins during the second year of the period of delay is an increase to the greater of the following amounts namely—  
 (a)  $\mathbf{PRL + SE + \frac{2}{3} [RR - (PRL + SE)]}$   
 (b)  $\mathbf{PRL + SE + SS(2)}$
- (4) Where the permitted increase for any rental period in terms of sub-paragraph (2) or (3) above, other than any increase permitted in respect of a service element, would exceed £1.50 per week, the period of delay shall be extended, and

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- (a) the permitted increase for a rental period which begins during the first year of the period of delay is an increase to the following amount—

**PRL+SE+£1.50 per week**

and

- (b) the permitted increase for a rental period which begins during a subsequent year of the period of delay is an increase to the amount which, for the last rental period beginning before that year, was payable by way of rent, having regard to the provisions of any enactment, plus
- (i) any increase permitted in respect of a service element not previously recovered ; and
- (ii) £1.50 per week.

- (5) Nothing in this Schedule shall enable a rent to be increased to an amount greater than the registered rent.

*Modifications in certain cases of rent agreements*

- 4 (1) Sub-paragraph (2) below applies in any case where there is, in respect of a dwelling-house, a rent agreement with a tenant having security of tenure within the meaning of section 42(1) of the 1972 Act, which takes effect—
- (a) on or after the commencement of this Act; and
- (b) less than two years before the date of a subsequent registration of a rent for the dwelling-house.
- (2) In the application of this Schedule in any case mentioned in sub-paragraph (1) above—
- (a) " previous rent limit" means, subject to paragraph 1(2) above, the amount which for the last rental period beginning before the date when the rent agreement took effect was payable by way of rent, having regard to the provisions of any enactment;
- (b) the period of delay shall begin with the date when the rent agreement took effect.
- (3) Nothing in this paragraph shall affect the amount of the rent recoverable for any rental period beginning before the date of the registration of a rent in terms of sub-paragraph (1) above.

*Effect of subsequent registration during period of delay*

- 5 Where a rent has been registered for a dwelling-house, and a new rent is registered for the dwelling-house during a period of delay imposed in respect of the former rent in terms of this Schedule, the restrictions imposed with respect to that period of delay shall, from the date of registration of the new rent, cease to apply, and a new period of delay imposed in terms of this Schedule shall begin with the registration of the new rent or, where paragraph 4 above applies, with the date when the rent agreement took effect.

*Modifications in cases where rent was registered before commencement of Act*

- 6 (1) In relation to any registered rent which was subject to phasing under the provisions of section 79 of the 1971 Act and Schedule 13 thereto, or of section 37 of the 1972

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Act and Schedule 6 thereto, sub-paragraph (2) or (3) of this paragraph shall apply in place of the said provisions.

- (2) Where a rent was registered before 8th March 1974 and part of a period of delay imposed in respect thereof under any of the provisions specified in sub-paragraph (1) above remained unexpired on that date—
- (a) in any case where 8th March 1974 fell within the second year of the said period of delay, this Schedule shall apply to the rent as if the second year of a period of delay imposed under this Schedule had ended at the commencement of this Act and as if the period of delay last mentioned had been extended under paragraph 3(4) above ;
  - (b) in any case where 8th March 1974 fell within the first year of the period of delay first mentioned, this Schedule shall apply as if the second year of a period of delay imposed under this Schedule had begun at the commencement of this Act.
- (3) In any case where a rent, which was subject to phasing under any of the provisions specified in sub-paragraph (1) above, was registered on or after 8th March 1974 but before the commencement of this Act, this Schedule shall apply to the rent as if—
- (i) a period of delay in terms of this Schedule had begun at such commencement, and
  - (ii) the previous rent limit were the amount which, for the last rental period beginning before such commencement, was payable, by way of rent, having regard to the provisions of any enactment.
- 7 Sub-paragraph (3) of paragraph 6 above shall apply in any case where—
- (a) a rent was registered before the commencement of this Act, which was not subject to phasing under any of the provisions referred to in that sub-paragraph, and
  - (b) the previous rent limit in terms of that sub-paragraph is less than the registered rent,
- as it applies in any such case as is mentioned in the said sub-paragraph (3).

#### *General*

- 8 (1) The Secretary of State may by order substitute, for the specified sum, or for the sum of £1.50 mentioned in paragraph 3(4) above, in relation to any year of the period of delay, or to the whole period, a sum other than the sum mentioned in this Schedule ; and different sums may be specified for each of those cases or any of them.
- (2) An order under sub-paragraph (1) 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 sub-paragraph.
- 9 In ascertaining for the purposes of this Schedule any difference between periods of different lengths, a month shall be treated as one-twelfth and a week as one-fifty-second of a year.
- 10 (1) Where a registration takes effect from a date earlier than the date of registration, references in this Schedule to the date of registration shall nonetheless be references to the later date.
- (2) Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by a rent officer, the preceding provisions of this Schedule

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shall have effect as if only the rent determined by the rent assessment committee had been registered ; but the date of registration shall be deemed for the purposes of this Schedule (but not for the purposes of section 21(3) of the 1971 Act) to be the date on which the rent determined by the rent officer was registered.

## PART II

### MISCELLANEOUS AMENDMENTS RELATING TO PHASING OF RENT INCREASES

- 11 In section 19(2) of the 1971 Act (determination of rent during contractual periods), as amended in terms of paragraph 3(4) of Part III to the Schedule to the Fire Precautions Act 1971, after the words " Fire Precautions Act 1971 " there shall be inserted the words " and section 7 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 12 In section 21(2)(b) of the 1971 Act (limit of rent during statutory periods), as amended in terms of paragraph 23 of Schedule 9 to the 1972 Act, for the words from " section 79 " to " 1972 " there shall be substituted the words " section 7 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 13 In section 31 of the 1971 Act (recovery from landlord of sums paid in excess of recoverable rent, etc.), after the words " this Part of this Act", in subsections (1) and (4) of that section, there shall be inserted in each case the words " or sections 7, 8 and 9 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 14 In section 43 of the 1971 Act (amount to be registered as rent), as amended by section 40 of the 1972 Act (certain amounts to be separately noted in register), for subsections (1A) and (1B) there shall be substituted the following subsections—
- “(1A) Subject to subsection (1B) below, there shall be noted separately on the register the amount, if any, of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to each of the following—
- (a) the use of furniture ;
  - (b) the provision of services ;
  - (c) the use of part of the premises comprised in a dwelling house as a shop or office or for business, trade or professional purposes.
- (1B) There shall not be noted on the register under subsection (1A) above any amount which in the opinion of the rent officer or rent assessment committee is less than 5 per cent, of the registered rent.”.
- 15 In section 43(3)(a) of the 1971 Act (treatment of rates borne by landlord), after the words "of this Act" there shall be inserted the words " or section 7 of the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 16 In Schedule 6 to the 1971 Act (applications for registration of rents), in paragraph 15, as added in terms of paragraph 28 of Schedule 9 to the 1972 Act, at the end there shall be added the words " and any amount to be recorded in the register in pursuance of paragraph 2(2) of Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 17 In Part III of the Schedule to the Fire Precautions Act 1971, in paragraph 3(1)(c), as added in terms of paragraph 31(3) of Schedule 9 to the 1972 Act, for the words

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- from " Schedule 13 " to " 1972 " there shall be substituted the words " Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975 ".
- 18 In section 42(3) of the 1972 Act (requirements as respects rent agreements), after paragraph (b) there shall be added the following paragraph—  
“(bb) the agreement contains a statement that, if a rent is registered under Part IV of the Act of 1971 in respect of the dwelling-house, any increase in the rent may be phased under section 7 of the Housing Rents and Subsidies (Scotland) Act 1975;”
- 19 In section 45 of the 1972 Act (failure to comply with provisions of rent agreements), in subsections (1) and (2), for the words " 43 or 44" there shall (in each case) be substituted the words " or 43 "
- 20 In Schedule 3 to the 1972 Act (rent rebates and allowances), in paragraph 15(1)(b) for the words from "Schedule 13 " to the end of head (b) there shall be substituted the words " Schedule 2 to the Housing Rents and Subsidies (Scotland) Act 1975. "